

By:

J. J. King - Gov

S.B. No. 425

A BILL TO BE ENTITLED

AN ACT

relating to subdivision platting requirements and assistance for certain counties near an international border.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 212.012(c), (e), and (f), Local Government Code, are amended to read as follows:

(c) An entity described by Subsection (b) may serve or connect land with water, sewer, electricity, gas, or other utility service regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115 if:

(1) the land is covered by a development plat approved under Subchapter B or under an ordinance or rule relating to the development plat;

(2) the land was first served or connected with service by an entity described by Subsection (b)(1), (b)(2), or (b)(3) before September 1, 1987;

(3) the land was first served or connected with service by an entity described by Subsection (b)(4), (b)(5), or (b)(6) before September 1, 1989; or

(4) the municipal authority responsible for approving plats issues a certificate stating that:

(A) the land:

(i) ~~[before September 1, 1995,]~~ was sold or

1 conveyed to the person requesting service by any means of
2 conveyance, including a contract for deed or executory contract,
3 before:

4 (a) September 1, 1995, in a county
5 defined under Section 232.022(a)(1); or

6 (b) September 1, 2005, in a county
7 defined under Section 232.022(a)(2);

8 (ii) is located in a subdivision in which
9 the entity has previously provided service;

10 (iii) is located outside the limits of the
11 municipality;

12 (iv) is located in a county to which
13 Subchapter B, Chapter 232, applies; and

14 (v) is the site of construction of a
15 residence, evidenced by at least the existence of a completed
16 foundation, that was begun on or before:

17 (a) May 1, 1997, in a county defined
18 under Section 232.022(a)(1); or

19 (b) September 1, 2005, in a county
20 defined under Section 232.022(a)(2); or

21 (B) the land was not subdivided after September
22 1, 1995, in a county defined under Section 232.022(a)(1), or
23 September 1, 2005, in a county defined under Section 232.022(a)(2),
24 and:

25 (i) water service is available within 750
26 feet of the subdivided land; or

27 (ii) water service is available more than

1 750 feet from the subdivided land and the extension of water service
2 to the land may be feasible, subject to a final determination by the
3 water service provider.

4 (e) A person requesting service may obtain a certificate
5 under Subsection (c)(4)(A) only if the person provides to the
6 municipal authority responsible for approving plats either:

7 (1) a copy of the means of conveyance or other
8 documents that show that the land was sold or conveyed to the person
9 requesting service before September 1, 1995, or before September 1,
10 2005, as applicable, and a notarized affidavit by that person that
11 states that construction of a residence on the land, evidenced by at
12 least the existence of a completed foundation, was begun on or
13 before May 1, 1997, or on or before September 1, 2005, as
14 applicable; or

15 (2) a notarized affidavit by the person requesting
16 service that states that the property was sold or conveyed to that
17 person before September 1, 1995, or before September 1, 2005, as
18 applicable, and that construction of a residence on the land,
19 evidenced by at least the existence of a completed foundation, was
20 begun on or before May 1, 1997, or on or before September 1, 2005, as
21 applicable.

22 (f) A person requesting service may obtain a certificate
23 under Subsection (c)(4)(B) only if the person provides to the
24 municipal authority responsible for approving plats an affidavit
25 that states that the property was not sold or conveyed to that
26 person from a subdivider or the subdivider's agent after September
27 1, 1995, or after September 1, 2005, as applicable.

1 SECTION 2. Section 232.022(a), Local Government Code, is
2 amended to read as follows:

3 (a) This subchapter applies only to:

4 (1) a county any part of which is located within 50
5 miles of an international border; or

6 (2) a county:

7 (A) any part of which is located within 150 miles
8 of an international border;

9 (B) that contains a municipality with a
10 population of more than 250,000; and

11 (C) to which Subdivision (1) does not apply.

12 SECTION 3. The heading to Section 232.029, Local Government
13 Code, is amended to read as follows:

14 Sec. 232.029. CONNECTION OF UTILITIES IN COUNTIES WITHIN 50
15 MILES OF INTERNATIONAL BORDER.

16 SECTION 4. Section 232.029, Local Government Code, is
17 amended by relettering Subsection (a) as Subsection (a-1) and
18 adding a new Subsection (a) to read as follows:

19 (a) This section applies only to a county defined under
20 Section 232.022(a)(1).

21 (a-1) [~~a~~] Except as provided by Subsection (c) or Section
22 232.037(c), a utility may not serve or connect any subdivided land
23 with water or sewer services unless the utility receives a
24 certificate issued by the commissioners court under Section
25 232.028(a) or receives a determination from the commissioners court
26 under Section 232.028(b)(1) that the plat has been reviewed and
27 approved by the commissioners court.

1 SECTION 5. Subchapter B, Chapter 232, Local Government
2 Code, is amended by adding Section 232.0291 to read as follows:

3 Sec. 232.0291. CONNECTION OF UTILITIES IN CERTAIN COUNTIES
4 WITHIN 150 MILES OF INTERNATIONAL BORDER. (a) This section applies
5 only to a county defined under Section 232.022(a)(2).

6 (b) Except as provided by Subsection (d) or Section
7 232.037(c), a utility may not serve or connect any subdivided land
8 with water or sewer services unless the utility receives a
9 certificate issued by the commissioners court under Section
10 232.028(a) or receives a determination from the commissioners court
11 under Section 232.028(b)(1) that the plat has been reviewed and
12 approved by the commissioners court.

13 (c) Except as provided by Subsection (d) or Section
14 232.037(c), a utility may not serve or connect any subdivided land
15 with electricity or gas unless the entity receives a determination
16 from the county commissioners court under Section 232.028(b)(2)
17 that adequate water and sewer services have been installed to
18 service the subdivision.

19 (d) An electric, gas, water, or sewer service utility may
20 serve or connect subdivided land with water, sewer, electricity,
21 gas, or other utility service regardless of whether the utility
22 receives a certificate issued by the commissioners court under
23 Section 232.028(a) or receives a determination from the
24 commissioners court under Section 232.028(b) if the utility is
25 provided with a certificate issued by the commissioners court that
26 states that:

27 (1) the subdivided land:

1 (A) was sold or conveyed to the person requesting
2 service by any means of conveyance, including a contract for deed or
3 executory contract before September 1, 2005;

4 (B) is located in a subdivision in which the
5 utility has previously provided service; and

6 (C) is the site of construction of a residence,
7 evidenced by at least the existence of a completed foundation, that
8 was begun on or before September 1, 2005; or

9 (2) the subdivided land was not subdivided after
10 September 1, 2005, and:

11 (A) water service is available within 750 feet of
12 the subdivided land; or

13 (B) water service is available more than 750 feet
14 from the subdivided land and the extension of water service to the
15 land may be feasible, subject to a final determination by the water
16 service provider.

17 (e) A utility may provide utility service to subdivided land
18 described by Subsection (d)(1) only if the person requesting
19 service:

20 (1) is not the land's subdivider or the subdivider's
21 agent; and

22 (2) provides to the utility a certificate described by
23 Subsection (d)(1).

24 (f) A person requesting service may obtain a certificate
25 under Subsection (d)(1) only if the person provides to the
26 commissioners court either:

27 (1) documentation containing:

1 (A) a copy of the means of conveyance or other
2 documents that show that the land was sold or conveyed to the person
3 requesting service before September 1, 2005; and

4 (B) a notarized affidavit by that person that
5 states that construction of a residence on the land, evidenced by at
6 least the existence of a completed foundation, was begun on or
7 before September 1, 2005; or

8 (2) a notarized affidavit by the person requesting
9 service that states that:

10 (A) the property was sold or conveyed to that
11 person before September 1, 2005; and

12 (B) construction of a residence on the land,
13 evidenced by at least the existence of a completed foundation, was
14 begun on or before September 1, 2005.

15 (g) A person requesting service may obtain a certificate
16 under Subsection (d)(2) only if the person provides to the
17 commissioners court an affidavit that states that the property was
18 not sold or conveyed to that person from a subdivider or the
19 subdivider's agent after September 1, 2005.

20 (h) On request, the commissioners court shall provide to the
21 attorney general and any appropriate local, county, or state law
22 enforcement official a copy of any document on which the
23 commissioners court relied in determining the legality of providing
24 service.

25 (i) This section may not be construed to abrogate any civil
26 or criminal proceeding or prosecution or to waive any penalty
27 against a subdivider for a violation of a state or local law,

1 regardless of the date on which the violation occurred.

2 (j) The prohibition established by this section does not
3 prohibit an electric or gas utility from providing electric or gas
4 utility connection or service to a lot:

5 (1) sold, conveyed, or purchased through a contract
6 for deed or executory contract or other device by a subdivider
7 before September 1, 2005;

8 (2) located within a subdivision where the utility has
9 previously established service; and

10 (3) subdivided by a plat approved before September 1,
11 1989.

12 (k) In this section, "foundation" means the lowest division
13 of a residence, usually consisting of a masonry slab or a pier and
14 beam structure, that is partly or wholly below the surface of the
15 ground and on which the residential structure rests.

16 SECTION 6. Section 232.031, Local Government Code, is
17 amended by amending Subsection (a) and adding Subsection (d) to
18 read as follows:

19 (a) Except as provided by Subsection (d), a [A] subdivider
20 may not sell or lease land in a subdivision first platted or
21 replatted after July 1, 1995, unless the subdivision plat is
22 approved by the commissioners court in accordance with Section
23 232.024.

24 (d) In a county defined under Section 232.022(a)(2), a
25 subdivider may not sell or lease land in a subdivision first platted
26 or replatted after September 1, 2005, unless the subdivision plat
27 is approved by the commissioners court in accordance with Section

1 232.024.

2 SECTION 7. Section 232.038, Local Government Code, is
3 amended to read as follows:

4 Sec. 232.038. SUIT BY PRIVATE PERSON IN ECONOMICALLY
5 DISTRESSED AREA. (a) Except as provided by Subsection (b), a [A]
6 person who has purchased or is purchasing a lot after July 1, 1995,
7 in a subdivision for residential purposes that does not have water
8 and sewer services as required by this subchapter and is located in
9 an economically distressed area, as defined by Section 17.921,
10 Water Code, from a subdivider, may bring suit in the district court
11 in which the property is located or in a district court in Travis
12 County to:

13 (1) declare the sale of the property void and require
14 the subdivider to return the purchase price of the property; and

15 (2) recover from the subdivider:

16 (A) the market value of any permanent
17 improvements the person placed on the property;

18 (B) actual expenses incurred as a direct result
19 of the failure to provide adequate water and sewer facilities;

20 (C) court costs; and

21 (D) reasonable attorney's fees.

22 (b) If the lot is located in a county defined under Section
23 232.022(a)(2), a person may only bring suit under Subsection (a) if
24 the person purchased or is purchasing the lot after September 1,
25 2005.

26 SECTION 8. Section 232.040(e), Local Government Code, is
27 amended to read as follows:

1 (e) Existing utility services to a subdivision that must be
2 platted or replatted under this section may not be terminated under
3 Section 232.029 or 232.0291.

4 SECTION 9. Section 232.043(b), Local Government Code, is
5 amended to read as follows:

6 (b) If the commissioners court makes a written finding that
7 the subdivider who created the unplatted subdivision no longer owns
8 property in the subdivision, the commissioners court may grant a
9 delay or variance under this section only if:

10 (1) a majority of the lots in the subdivision were sold
11 before:

12 (A) September 1, 1995, in a county defined under
13 Section 232.022(a)(1); or

14 (B) September 1, 2005, in a county defined under
15 Section 232.022(a)(2);

16 (2) a majority of the resident purchasers in the
17 subdivision sign a petition supporting the delay or variance;

18 (3) the person requesting the delay or variance
19 submits to the commissioners court:

20 (A) a description of the water and sewer service
21 facilities that will be constructed or installed to service the
22 subdivision;

23 (B) a statement specifying the date by which the
24 water and sewer service facilities will be fully operational; and

25 (C) a statement signed by an engineer licensed in
26 this state certifying that the plans for the water and sewer
27 facilities meet the minimum state standards;

1 (4) the commissioners court finds that the unplatted
2 subdivision at the time the delay or variance is requested is
3 developed in a manner and to an extent that compliance with specific
4 platting requirements is impractical or contrary to the health or
5 safety of the residents of the subdivision; and

6 (5) the subdivider who created the unplatted
7 subdivision has not violated local law, federal law, or state law,
8 excluding this chapter, in subdividing the land for which the delay
9 or variance is requested, if the subdivider is the person
10 requesting the delay or variance.

11 SECTION 10. Section 232.106, Local Government Code, is
12 amended to read as follows:

13 Sec. 232.106. CONNECTION OF UTILITIES. By an order adopted
14 and entered in the minutes of the commissioners court, and after a
15 notice is published in a newspaper of general circulation in the
16 county, the commissioners court may impose the requirements of
17 Section 232.029 or 232.0291.

18 SECTION 11. Section 775.001(2), Government Code, is amended
19 to read as follows:

20 (2) "Colonia" means a geographic area that:

21 (A) is an economically distressed area as defined
22 by Section 17.921, Water Code; and

23 (B) is:

24 (i) located in a county any part of which is
25 within 50 miles of an international border; or

26 (ii) located in a county:

27 (a) any part of which is within 150

1 miles of an international border; and

2 (b) that contains a municipality with
3 a population of more than 250,000.

4 SECTION 12. Section 775.003, Government Code, is amended to
5 read as follows:

6 Sec. 775.003. COLONIA OMBUDSMAN PROGRAM. The colonia
7 initiatives coordinator may appoint a colonia ombudsman in:

8 (1) each of the six border counties that the
9 coordinator determines have the largest colonia populations; and

10 (2) each additional county any part of which is within
11 150 miles of an international border and that contains a
12 municipality with a population of more than 250,000.

13 SECTION 13. Section 37.153, Utilities Code, is amended to
14 read as follows:

15 Sec. 37.153. REQUIRED REFUSAL OF SERVICE. A certificate
16 holder shall refuse to serve a customer in the holder's
17 certificated area if the holder is prohibited from providing the
18 service under Section 212.012, ~~[or]~~ 232.029, or 232.0291, Local
19 Government Code.

20 SECTION 14. Section 54.254, Utilities Code, is amended to
21 read as follows:

22 Sec. 54.254. REQUIRED REFUSAL OF SERVICE. A holder of a
23 certificate of convenience and necessity, a certificate of
24 operating authority, or a service provider certificate of operating
25 authority shall refuse to serve a customer in the holder's
26 certificated area if the holder is prohibited from providing the
27 service under Section 212.012, ~~[or]~~ 232.029, or 232.0291, Local

1 Government Code.

2 SECTION 15. Section 17.923, Water Code, is amended to read
3 as follows:

4 Sec. 17.923. COUNTY ELIGIBILITY FOR FINANCIAL ASSISTANCE.
5 To be eligible for financial assistance under this subchapter, a
6 county:

7 (1) must have a per capita income that averaged 25
8 percent below the state average for the most recent three
9 consecutive years for which statistics are available and an
10 unemployment rate that averaged 25 percent above the state average
11 for the most recent three consecutive years for which statistics
12 are available; ~~[or]~~

13 (2) must be located adjacent to an international
14 border; or

15 (3) must be located in whole or in part within 150
16 miles of an international border and contain a municipality with a
17 population of more than 250,000.

18 SECTION 16. This Act takes effect September 1, 2005.

BILL ANALYSIS

Senate Research Center
79R4034 QS-D

S.B. 425
By: Hinojosa
Intergovernmental Relations
3/7/2005
As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Current law regulating colonias is only applicable to counties within 50 miles of the border. As proposed, S.B. 425 allows a county that is located within 150 miles of an international border and that contains a city with a population of more than 250,000 to:

- (1) prevent future substandard housing from springing up ;
- (2) receive the assistance of a colonia ombudsman; and
- (3) be eligible for EDAP (economically distressed areas program) funds from the state. S.B. 425 gives an affected county the power to approve plats in unincorporated areas of the county.

This power allows a county to prevent unscrupulous developers from taking advantage of homeowners who are often left without paved roads or basic services such as running water, sewer lines, or electricity. S.B. 425 amends Subchapter B, Chapter 232, Local Government Code, which was passed in the mid-1990s and gave border counties the power to enforce minimum standards for solid waste, water, and waste water services.

RULEMAKING AUTHORITY

This bill does not expressly grant additional rulemaking authority to any state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 212.012(c), (e), and (f), Local Government Code, as follows:

(c) Authorize an entity described by Subsection (b) to serve or connect land with water, sewer, electricity, gas, or other utility service regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115 if the municipal authority responsible for approving plats issues a certificate stating that the land was sold or conveyed to the person requesting service by any means of conveyance, including a contract for deed or executory contract, before September 1, 1995, in a county defined under Section 232.022(a)(1); or September 1, 2005, in a county defined under Section 232.022(a)(2). Adds provisions for actions taken on or before May 1, 1997 by counties defined under Section 232.022(a)(1) or September 1, 2005, for counties defined under Section 232.022(a)(2).

(e) Make conforming and nonsubstantive changes.

(f) Make conforming and nonsubstantive changes.

SECTION 2. Amends Section 232.022(a), Local Government, to provide that this subchapter is applicable to a county that meets certain requirements.

SECTION 3. Amends the heading to Section 232.029, Local Government Code, to read as follows:

Sec. 232.029. CONNECTION OF UTILITIES IN COUNTIES WITHIN 50 MILES OF INTERNATIONAL BORDER.

SECTION 4. Amends Section 232.029, Local Government Code, by relettering Subsection (a) as Subsection (a-1) and adding a new Subsection (a) to provide that this section only applies to a county defined under Section 232.022(a)(1).

SECTION 5. Amends Subchapter B, Chapter 232, Local Government Code, by adding Section 232.0291, to read as follows:

Sec. 232.0291. CONNECTION OF UTILITIES IN CERTAIN COUNTIES WITHIN 150 MILES OF INTERNATIONAL BORDER. (a) Provides that this section applies only to a county defined under Section 232.022(a)(2).

(b) Prohibits a utility, except as provided by Subsection (d) or Section 232.037(c), from serving or connecting any subdivided land with water or sewer services unless the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b)(1) that the plat has been reviewed and approved by the commissioners court.

(c) Prohibits a utility, except as provided by Subsection (d) or Section 232.037(c), from serving or connecting any subdivided land with electricity or gas unless the entity receives a determination from the county commissioners court under Section 232.028(b)(2) that adequate water and sewer services have been installed to service the subdivision.

(d) Authorizes an electric, gas, water, or sewer service utility to serve or connect subdivided land with water, sewer, electricity, gas, or other utility service regardless of whether the utility receives a certificate issued by the commissioners court under Section 232.028(b), if the utility is provided with a certificate issued by the commissioners court that meets certain requirements.

(e) Authorizes a utility to provide service to subdivided land described by Subsection (d)(1) only if the person requesting the service meets certain requirements.

(f) Provides that a person requesting service may obtain a certificate under Subsection (d)(1) only if the person provides to the commissioners court certain documentation.

(g) Provides that a person requesting service may obtain a certificate under Subsection (d)(2) only if the person provides to the commissioners court an affidavit that states that property was not sold or conveyed to that person from a subdivider or the subdivider's agent after September 1, 2005.

(h) Requires the commissioners court, on request, to provide to the attorney general and any appropriate local, county, or state law enforcement official a copy of any document on which the commissioners court relied in determining the legality of providing service.

(i) Prohibits this section from being construed to abrogate any civil or criminal proceeding or prosecution or to waive any penalty against a subdivider for a violation of a state or local law, regardless of the date on which the violation was committed.

(j) Provides that the prohibition established by this section does not prohibit an electric or gas utility from providing electric or gas utility connection or service to a lot that meets certain requirements.

(j) Defines "foundation."

SECTION 6. Amends Section 232.031, Local Government Code, by amending Subsection (a) to make an exception as provided by Subsection (d) and adding Subsection (d), as follows:

(d) Prohibits a subdivider, in a county defined under Section 232.022(a)(2), from selling or leasing land in a subdivision first platted or replatted after September 1, 2005, unless the subdivision plat is approved by the commissioners court in accordance with Section 232.024.

SECTION 7. Amends Section 232.038, Local Government Code, to add an exception as provided by Subsection (b) and to authorize a person, if the lot is located in a county defined under Section 232.022(a)(2), to only bring suit under Subsection (a) if the person purchased or is purchasing the lot after September 1, 2005.

SECTION 8. Amends Section 232.040(e), Local Government Code, to provide that an existing utility that must be platted or replatted under this section may not be terminated under Section 232.0291.

SECTION 9. Amends Section 232.043(b), Local Government Code, to authorize the commissioners court, if the commissioners court makes a written finding that the subdivider who created the unplatted subdivision no longer owns property in the subdivision, to grant a delay or variance under this section only if a majority of lots in the subdivision were sold before September 1, 1995, in a county defined under Section 232.022(a)(1) or September 1, 2005, in a county defined under Section 232.022(a)(2).

SECTION 10. Amends Section 232.106, Local Government Code, to authorize the commissioners court to, by an adopted order and entered into the minutes of the commissioners court, and after a notice is published in a newspaper of general circulation in the county, impose the requirements of Section 232.0291.

SECTION 11. Amends Section 775.001(2), Government Code, to redefine "colonia."

SECTION 12. Amends Section 775.003, Government Code, to authorize the colonia initiatives coordinator to appoint a colonia ombudsman in each additional county any part of which is within 150 miles of an international border and that contains a municipality with a population of more than 250,000.

SECTION 13. Amends Section 37.153, Utilities Code, to require a certificate holder to refuse to serve a customer in the holder's certificated area if the holder is prohibited from providing the service under Section 232.0291, Local Government Code.

SECTION 14. Amends Section 54.254, Utilities Code, to require a holder of a certificate of conveyance and necessity, a certificate of operating authority, or a service provider certificate of operating authority, to refuse to serve a customer in the holder's certificated area if the holder is prohibited from providing the service under Section 232.0291, Local Government Code.

SECTION 15. Amends Section 17.923, Water Code, to require that to be eligible for financial assistance under this subchapter a county must be located in whole or in part within 150 miles of an international border and contain a municipality with a population of more than 250,000.

SECTION 16. Effective date: September 1, 2005.

By: Hinojosa S.B. No. 425
(In the Senate - Filed February 9, 2005; February 15, 2005,
read first time and referred to Committee on Intergovernmental
Relations; April 12, 2005, reported adversely, with favorable
Committee Substitute by the following vote: Yeas 5, Nays 0;
April 12, 2005, sent to printer.)

COMMITTEE SUBSTITUTE FOR S.B. No. 425

By: Gallegos

A BILL TO BE ENTITLED
AN ACT

relating to subdivision platting requirements and assistance for
certain counties near an international border.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsections (c), (e), and (f), Section 212.012,
Local Government Code, are amended to read as follows:

(c) An entity described by Subsection (b) may serve or
connect land with water, sewer, electricity, gas, or other utility
service regardless of whether the entity is presented with or
otherwise holds a certificate applicable to the land issued under
Section 212.0115 if:

(1) the land is covered by a development plat approved
under Subchapter B or under an ordinance or rule relating to the
development plat;

(2) the land was first served or connected with
service by an entity described by Subsection (b)(1), (b)(2), or
(b)(3) before September 1, 1987;

(3) the land was first served or connected with
service by an entity described by Subsection (b)(4), (b)(5), or
(b)(6) before September 1, 1989; or

(4) the municipal authority responsible for approving
plats issues a certificate stating that:

(A) the land:

(i) ~~[before September 1, 1995,]~~ was sold or
conveyed to the person requesting service by any means of
conveyance, including a contract for deed or executory contract,
before:

(a) September 1, 1995, in a county
defined under Section 232.022(a)(1); or

(b) September 1, 2005, in a county
defined under Section 232.022(a)(2);

(ii) is located in a subdivision in which
the entity has previously provided service;

(iii) is located outside the limits of the
municipality;

(iv) is located in a county to which
Subchapter B, Chapter 232, applies; and

(v) is the site of construction of a
residence, evidenced by at least the existence of a completed
foundation, that was begun on or before:

(a) May 1, 1997, in a county defined
under Section 232.022(a)(1); or

(b) September 1, 2005, in a county
defined under Section 232.022(a)(2); or

(B) the land was not subdivided after September
1, 1995, in a county defined under Section 232.022(a)(1), or
September 1, 2005, in a county defined under Section 232.022(a)(2),
and:

(i) water service is available within 750
feet of the subdivided land; or

(ii) water service is available more than
750 feet from the subdivided land and the extension of water service
to the land may be feasible, subject to a final determination by the
water service provider.

(e) A person requesting service may obtain a certificate

under Subsection (c)(4)(A) only if the person provides to the municipal authority responsible for approving plats either:

(1) a copy of the means of conveyance or other documents that show that the land was sold or conveyed to the person requesting service before September 1, 1995, or before September 1, 2005, as applicable, and a notarized affidavit by that person that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 1997, or on or before September 1, 2005, as applicable; or

(2) a notarized affidavit by the person requesting service that states that the property was sold or conveyed to that person before September 1, 1995, or before September 1, 2005, as applicable, and that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 1997, or on or before September 1, 2005, as applicable.

(f) A person requesting service may obtain a certificate under Subsection (c)(4)(B) only if the person provides to the municipal authority responsible for approving plats an affidavit that states that the property was not sold or conveyed to that person from a subdivider or the subdivider's agent after September 1, 1995, or after September 1, 2005, as applicable.

SECTION 2. Section 232.022, Local Government Code, is amended by amending Subsections (a) and (c) and adding Subsection (c-1) to read as follows:

(a) This subchapter applies only to:

(1) a county any part of which is located within 50 miles of an international border; or

(2) a county:

(A) any part of which is located within 100 miles of an international border;

(B) that contains the majority of the area of a municipality with a population of more than 250,000; and

(C) to which Subdivision (1) does not apply.

(c) Except as provided by Subsection (c-1), for [For] purposes of this section, land is considered to be in the jurisdiction of a county if the land is located in the county and outside the corporate limits of municipalities.

(c-1) Land in a municipality's extraterritorial jurisdiction is not considered to be in the jurisdiction of a county for purposes of this section if the municipality and the county have entered into a written agreement under Section 242.001 that authorizes the municipality to regulate subdivision plats and approve related permits in the municipality's extraterritorial jurisdiction.

SECTION 3. The heading to Section 232.029, Local Government Code, is amended to read as follows:

Sec. 232.029. CONNECTION OF UTILITIES IN COUNTIES WITHIN 50 MILES OF INTERNATIONAL BORDER.

SECTION 4. Section 232.029, Local Government Code, is amended by relettering Subsection (a) as Subsection (a-1) and adding a new Subsection (a) to read as follows:

(a) This section applies only to a county defined under Section 232.022(a)(1).

(a-1) Except as provided by Subsection (c) or Section 232.037(c), a utility may not serve or connect any subdivided land with water or sewer services unless the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b)(1) that the plat has been reviewed and approved by the commissioners court.

SECTION 5. Subchapter B, Chapter 232, Local Government Code, is amended by adding Section 232.0291 to read as follows:

Sec. 232.0291. CONNECTION OF UTILITIES IN CERTAIN COUNTIES WITHIN 100 MILES OF INTERNATIONAL BORDER. (a) This section applies only to a county defined under Section 232.022(a)(2).

(b) Except as provided by Subsection (d) or Section 232.037(c), a utility may not serve or connect any subdivided land

with water or sewer services unless the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b)(1) that the plat has been reviewed and approved by the commissioners court.

(c) Except as provided by Subsection (d) or Section 232.037(c), a utility may not serve or connect any subdivided land with electricity or gas unless the entity receives a determination from the county commissioners court under Section 232.028(b)(2) that adequate water and sewer services have been installed to service the subdivision.

(d) An electric, gas, water, or sewer service utility may serve or connect subdivided land with water, sewer, electricity, gas, or other utility service regardless of whether the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b) if the utility is provided with a certificate issued by the commissioners court that states that:

(1) the subdivided land:

(A) was sold or conveyed to the person requesting service by any means of conveyance, including a contract for deed or executory contract before September 1, 2005;

(B) is located in a subdivision in which the utility has previously provided service; and

(C) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun on or before September 1, 2005; or

(2) the subdivided land was not subdivided after September 1, 2005, and:

(A) water service is available within 750 feet of the subdivided land; or

(B) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

(e) A utility may provide utility service to subdivided land described by Subsection (d)(1) only if the person requesting service:

(1) is not the land's subdivider or the subdivider's agent; and

(2) provides to the utility a certificate described by Subsection (d)(1).

(f) A person requesting service may obtain a certificate under Subsection (d)(1) only if the person provides to the commissioners court either:

(1) documentation containing:

(A) a copy of the means of conveyance or other documents that show that the land was sold or conveyed to the person requesting service before September 1, 2005; and

(B) a notarized affidavit by that person that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before September 1, 2005; or

(2) a notarized affidavit by the person requesting service that states that:

(A) the property was sold or conveyed to that person before September 1, 2005; and

(B) construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before September 1, 2005.

(g) A person requesting service may obtain a certificate under Subsection (d)(2) only if the person provides to the commissioners court an affidavit that states that the property was not sold or conveyed to that person from a subdivider or the subdivider's agent after September 1, 2005.

(h) On request, the commissioners court shall provide to the attorney general and any appropriate local, county, or state law enforcement official a copy of any document on which the

commissioners court relied in determining the legality of providing service.

(i) This section may not be construed to abrogate any civil or criminal proceeding or prosecution or to waive any penalty against a subdivider for a violation of a state or local law, regardless of the date on which the violation occurred.

(j) The prohibition established by this section does not prohibit an electric or gas utility from providing electric or gas utility connection or service to a lot:

(1) sold, conveyed, or purchased through a contract for deed or executory contract or other device by a subdivider before September 1, 2005;

(2) located within a subdivision where the utility has previously established service; and

(3) subdivided by a plat approved before September 1, 1989.

(k) In this section, "foundation" means the lowest division of a residence, usually consisting of a masonry slab or a pier and beam structure, that is partly or wholly below the surface of the ground and on which the residential structure rests.

SECTION 6. Section 232.031, Local Government Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsection (d), a [A] subdivider may not sell or lease land in a subdivision first platted or replatted after July 1, 1995, unless the subdivision plat is approved by the commissioners court in accordance with Section 232.024.

(d) In a county defined under Section 232.022(a)(2), a subdivider may not sell or lease land in a subdivision first platted or replatted after September 1, 2005, unless the subdivision plat is approved by the commissioners court in accordance with Section 232.024.

SECTION 7. Section 232.038, Local Government Code, is amended to read as follows:

Sec. 232.038. SUIT BY PRIVATE PERSON IN ECONOMICALLY DISTRESSED AREA. (a) Except as provided by Subsection (b), a [A] person who has purchased or is purchasing a lot after July 1, 1995, in a subdivision for residential purposes that does not have water and sewer services as required by this subchapter and is located in an economically distressed area, as defined by Section 17.921, Water Code, from a subdivider, may bring suit in the district court in which the property is located or in a district court in Travis County to:

(1) declare the sale of the property void and require the subdivider to return the purchase price of the property; and

(2) recover from the subdivider:

- (A) the market value of any permanent improvements the person placed on the property;
- (B) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;
- (C) court costs; and
- (D) reasonable attorney's fees.

(b) If the lot is located in a county defined under Section 232.022(a)(2), a person may only bring suit under Subsection (a) if the person purchased or is purchasing the lot after September 1, 2005.

SECTION 8. Subsection (e), Section 232.040, Local Government Code, is amended to read as follows:

(e) Existing utility services to a subdivision that must be platted or replatted under this section may not be terminated under Section 232.029 or 232.0291.

SECTION 9. Subsection (b), Section 232.043, Local Government Code, is amended to read as follows:

(b) If the commissioners court makes a written finding that the subdivider who created the unplatted subdivision no longer owns property in the subdivision, the commissioners court may grant a delay or variance under this section only if:

(1) a majority of the lots in the subdivision were sold

before:

(A) September 1, 1995, in a county defined under Section 232.022(a)(1); or

(B) September 1, 2005, in a county defined under Section 232.022(a)(2);

(2) a majority of the resident purchasers in the subdivision sign a petition supporting the delay or variance;

(3) the person requesting the delay or variance submits to the commissioners court:

(A) a description of the water and sewer service facilities that will be constructed or installed to service the subdivision;

(B) a statement specifying the date by which the water and sewer service facilities will be fully operational; and

(C) a statement signed by an engineer licensed in this state certifying that the plans for the water and sewer facilities meet the minimum state standards;

(4) the commissioners court finds that the unplatted subdivision at the time the delay or variance is requested is developed in a manner and to an extent that compliance with specific platting requirements is impractical or contrary to the health or safety of the residents of the subdivision; and

(5) the subdivider who created the unplatted subdivision has not violated local law, federal law, or state law, excluding this chapter, in subdividing the land for which the delay or variance is requested, if the subdivider is the person requesting the delay or variance.

SECTION 10. Section 232.106, Local Government Code, is amended to read as follows:

Sec. 232.106. CONNECTION OF UTILITIES. By an order adopted and entered in the minutes of the commissioners court, and after a notice is published in a newspaper of general circulation in the county, the commissioners court may impose the requirements of Section 232.029 or 232.0291.

SECTION 11. Subdivision (2), Section 775.001, Government Code, is amended to read as follows:

(2) "Colonia" means a geographic area that:

(A) is an economically distressed area as defined by Section 17.921, Water Code; and

(B) is:

(i) located in a county any part of which is within 50 miles of an international border; or

(ii) located in a county:

(a) any part of which is within 100 miles of an international border; and

(b) that contains the majority of the area of a municipality with a population of more than 250,000.

SECTION 12. Section 775.003, Government Code, is amended to read as follows:

Sec. 775.003. COLONIA OMBUDSMAN PROGRAM. The colonia initiatives coordinator may appoint a colonia ombudsman in:

(1) each of the six border counties that the coordinator determines have the largest colonia populations; and

(2) each additional county any part of which is within 100 miles of an international border and that contains the majority of the area of a municipality with a population of more than 250,000.

SECTION 13. Section 37.153, Utilities Code, is amended to read as follows:

Sec. 37.153. REQUIRED REFUSAL OF SERVICE. A certificate holder shall refuse to serve a customer in the holder's certificated area if the holder is prohibited from providing the service under Section 212.012, ~~[or]~~ 232.029, or 232.0291, Local Government Code.

SECTION 14. Section 54.254, Utilities Code, is amended to read as follows:

Sec. 54.254. REQUIRED REFUSAL OF SERVICE. A holder of a certificate of convenience and necessity, a certificate of operating authority, or a service provider certificate of operating

6-1 authority shall refuse to serve a customer in the holder's
6-2 certificated area if the holder is prohibited from providing the
6-3 service under Section 212.012, ~~[or]~~ 232.029, or 232.0291, Local
6-4 Government Code.

6-5 SECTION 15. Subdivision (1), Section 16.341, Water Code, is
6-6 amended to read as follows:

6-7 (1) "Affected county" means a county:
6-8 (A) that has a per capita income that averaged 25
6-9 percent below the state average for the most recent three
6-10 consecutive years for which statistics are available and an
6-11 unemployment rate that averaged 25 percent above the state average
6-12 for the most recent three consecutive years for which statistics
6-13 are available; ~~[or]~~

6-14 (B) that is adjacent to an international border;
6-15 or

6-16 (C) that is located in whole or in part within 100
6-17 miles of an international border and contains the majority of the
6-18 area of a municipality with a population of more than 250,000.

6-19 SECTION 16. Section 17.923, Water Code, is amended to read
6-20 as follows:

6-21 Sec. 17.923. COUNTY ELIGIBILITY FOR FINANCIAL ASSISTANCE.
6-22 To be eligible for financial assistance under this subchapter, a
6-23 county:

6-24 (1) must have a per capita income that averaged 25
6-25 percent below the state average for the most recent three
6-26 consecutive years for which statistics are available and an
6-27 unemployment rate that averaged 25 percent above the state average
6-28 for the most recent three consecutive years for which statistics
6-29 are available; ~~[or]~~

6-30 (2) must be located adjacent to an international
6-31 border; or

6-32 (3) must be located in whole or in part within 100
6-33 miles of an international border and contain the majority of the
6-34 area of a municipality with a population of more than 250,000.

6-35 SECTION 17. This Act takes effect September 1, 2005.

6-36 * * * * *

FAVORABLY AS SUBSTITUTED
SENATE COMMITTEE REPORT ON

(SB) SCR SJR SR HB HCR HJR 425
By Hinojosa
(Author/Senate Sponsor)
4/12/05
(date)

Sir:

We, your Committee on INTERGOVERNMENTAL RELATIONS, to which was referred the attached measure,
have on 4/10/05, had the same under consideration and I am instructed to report it
(date of hearing)
back with the recommendation (s) that it:

- ☒ do pass as substituted, and be printed
☒ the caption remained the same as original measure
☐ the caption changed with adoption of the substitute
☐ do pass as substituted, and be ordered not printed
☒ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no
A revised fiscal note was requested. ☒ yes ☐ no
An actuarial analysis was requested. ☐ yes ☒ no
Considered by subcommittee. ☐ yes ☒ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Frank Madla, Chairman	<input checked="" type="checkbox"/>			
Senator Kim Brimer, Vice-Chairman	<input checked="" type="checkbox"/>			
Senator Bob Deuell	<input checked="" type="checkbox"/>			
Senator Mario Gallegos	<input checked="" type="checkbox"/>			
Senator Jeff Wentworth	<input checked="" type="checkbox"/>			
TOTAL VOTES	5	0	0	0

COMMITTEE ACTION

(S260) Considered in public hearing
S270 Testimony taken

Christine Wright
COMMITTEE CLERK

Frank Madla
CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill along with TWO copies of the Committee Substitute
Retain one copy of this form for Committee files

WITNESS LIST

SB 425

SENATE COMMITTEE REPORT

Intergovernmental Relations

April 6, 2005 - 9:00AM

Registering, but not testifying:

On: Madera Jr., Ignacio Deputy Executive Administrator (Texas Water Development Board), Austin, TX
Petron, Geoff Attorney (Texas Water Development Board), Austin, TX

BILL ANALYSIS

Senate Research Center
79R9158 QS-D

C.S.S.B. 425
By: Hinojosa
Intergovernmental Relations
4/11/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Current law regulating colonias is only applicable to counties within 50 miles of the border. C.S.S.B. 425 allows a county that is located within 100 miles of an international border and that contains a city with a population of more than 250,000 to:

- (1) prevent future substandard housing from springing up ;
- (2) receive the assistance of a colonia ombudsman; and
- (3) be eligible for EDAP (economically distressed areas program) funds from the state.

C.S.S.B. 425 gives an affected county the power to approve plats in unincorporated areas of the county. This power allows a county to prevent unscrupulous developers from taking advantage of homeowners who are often left without paved roads or basic services such as running water, sewer lines, or electricity.

C.S.S.B. 425 amends Subchapter B, Chapter 232, Local Government Code, which was passed in the mid-1990s and gave border counties the power to enforce minimum standards for solid waste, water, and wastewater services.

RULEMAKING AUTHORITY

This bill does not expressly grant additional rulemaking authority to any state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 212.012(c), (e), and (f), Local Government Code, as follows:

(c) Authorizes an entity described by Subsection (b) to serve or connect land with water, sewer, electricity, gas, or other utility service regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115 if the municipal authority responsible for approving plats issues a certificate stating that the land was sold or conveyed to the person requesting service by any means of conveyance, including a contract for deed or executory contract, before September 1, 1995, in a county defined under Section 232.022(a)(1); or September 1, 2005, in a county defined under Section 232.022(a)(2); or is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun on or before September 1, 2005, in a county defined under Section 232.022(a)(2); or the land was not subdivided after September 1, 1995, in a county defined under Section 232.022(a)(1) or September 1, 2005, in a county defined under Section 232.022(a)(2), and certain conditions exist relating to the availability of water service.

(e) Make conforming and nonsubstantive changes.

(f) Make conforming and nonsubstantive changes.

SECTION 2. Amends Section 232.022, Local Government, by amending Subsections (a) and (c) and adding Subsection (c-1), as follows:

(a) Provides that this subchapter is applicable to a county with certain characteristics.

(c) Provides that, except as provided by Subsection (c-1), for the purposes of this section, land is considered to be in the jurisdiction of a county if the land is located in the county and outside the corporate limits of the municipalities.

(c-1) Provides that the land in a municipality's extraterritorial jurisdiction is not considered to be in the jurisdiction of a county for the purposes of this section if the municipality and the county have entered into a written agreement under Section 242.001 that authorizes the municipality to regulate subdivision plats and approve related permits in the municipality's extraterritorial jurisdiction.

SECTION 3. Amends the heading to Section 232.029, Local Government Code, to read as follows:

Sec. 232.029. CONNECTION OF UTILITIES IN COUNTIES WITHIN 50 MILES OF INTERNATIONAL BORDER.

SECTION 4. Amends Section 232.029, Local Government Code, by relettering Subsection (a) as Subsection (a-1) and adding a new Subsection (a) to provide that this section only applies to a county defined under Section 232.022(a)(1).

SECTION 5. Amends Subchapter B, Chapter 232, Local Government Code, by adding Section 232.0291, to read as follows:

Sec. 232.0291. CONNECTION OF UTILITIES IN CERTAIN COUNTIES WITHIN 100 MILES OF INTERNATIONAL BORDER. (a) Provides that this section applies only to a county defined under Section 232.022(a)(2).

(b) Prohibits a utility, except as provided by Subsection (d) or Section 232.037(c), from serving or connecting any subdivided land with water or sewer services unless the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b)(1) that the plat has been reviewed and approved by the commissioners court.

(c) Prohibits a utility, except as provided by Subsection (d) or Section 232.037(c), from serving or connecting any subdivided land with electricity or gas unless the entity receives a determination from the county commissioners court under Section 232.028(b)(2) that adequate water and sewer services have been installed to service the subdivision.

(d) Authorizes an electric, gas, water, or sewer service utility to serve or connect subdivided land with water, sewer, electricity, gas, or other utility service regardless of whether the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b) if the utility is provided with a certificate issued by the commissioners court that makes certain statements.

(e) Authorizes a utility to provide service to subdivided land described by Subsection (d)(1) only if the person requesting the service meets certain requirements.

(f) Provides that a person requesting service may obtain a certificate under Subsection (d)(1) only if the person provides to the commissioners court certain documentation.

(g) Provides that a person requesting service may obtain a certificate under Subsection (d)(2) only if the person provides to the commissioners court an affidavit that states that property was not sold or conveyed to that person from a subdivider or the subdivider's agent after September 1, 2005.

(h) Requires the commissioners court, on request, to provide to the attorney general and any appropriate local, county, or state law enforcement official a copy of any document on which the commissioners court relied in determining the legality of providing service.

(i) Prohibits this section from being construed to abrogate any civil or criminal proceeding or prosecution or to waive any penalty against a subdivider for a violation of a state or local law, regardless of the date on which the violation was committed.

(j) Provides that the prohibition established by this section does not prohibit an electric or gas utility from providing electric or gas utility connection or service to a lot that meets certain requirements.

(j) Defines "foundation."

SECTION 6. Amends Section 232.031, Local Government Code, by amending Subsection (a) to make an exception as provided by Subsection (d) and adding Subsection (d), as follows:

(d) Prohibits a subdivider, in a county defined under Section 232.022(a)(2), from selling or leasing land in a subdivision first platted or replatted after September 1, 2005, unless the subdivision plat is approved by the commissioners court in accordance with Section 232.024.

SECTION 7. Amends Section 232.038, Local Government Code, to add an exception as provided by Subsection (b) and to authorize a person, if the lot is located in a county defined under Section 232.022(a)(2), to only bring suit under Subsection (a) if the person purchased or is purchasing the lot after September 1, 2005.

SECTION 8. Amends Section 232.040(e), Local Government Code, to provide that an existing utility that must be platted or replatted under this section may not be terminated under Section 232.0291.

SECTION 9. Amends Section 232.043(b), Local Government Code, to authorize the commissioners court, if the commissioners court makes a written finding that the subdivider who created the unplatted subdivision no longer owns property in the subdivision, to grant a delay or variance under this section only if a majority of lots in the subdivision were sold before September 1, 1995, in a county defined under Section 232.022(a)(1) or September 1, 2005, in a county defined under Section 232.022(a)(2).

SECTION 10. Amends Section 232.106, Local Government Code, to authorize the commissioners court to, by an adopted order and entered into the minutes of the commissioners court, and after a notice is published in a newspaper of general circulation in the county, impose the requirements of Section 232.0291.

SECTION 11. Amends Section 775.001(2), Government Code, to redefine "colonia."

SECTION 12. Amends Section 775.003, Government Code, to authorize the colonia initiatives coordinator to appoint a colonia ombudsman in each additional county any part of which is within 100 miles of an international border and that contains a municipality with a population of more than 250,000.

SECTION 13. Amends Section 37.153, Utilities Code, to require a certificate holder to refuse to serve a customer in the holder's certificated area if the holder is prohibited from providing the service under Section 232.0291, Local Government Code.

SECTION 14. Amends Section 54.254, Utilities Code, to require a holder of a certificate of conveyance and necessity, a certificate of operating authority, or a service provider certificate of operating authority, to refuse to serve a customer in the holder's certificated area if the holder is prohibited from providing the service under Section 232.0291, Local Government Code.

SECTION 15. Amends Section 16.341(1), Water Code, to redefine "affected county."

SECTION 16. Amends Section 17.923, Water Code, to require that to be eligible for financial assistance under this subchapter a county must be located in whole or in part within 100 miles of an international border and contain a municipality with a population of more than 250,000.

SECTION 17. Effective date: September 1, 2005.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 7, 2005

TO: Honorable Frank Madla, Chair, Senate Committee on Intergovernmental Relations

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB425 by Hinojosa (Relating to subdivision platting requirements and assistance for certain counties near an international border.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code relating to serving or connecting land with water, sewer, electricity, gas, or other utility service by a municipality, county, special district, or certain water supply or sewer service corporation to specify applicability in counties located within 50 miles of the border of Mexico and a county located within 100 miles of the international border and that contains the majority of the area of a municipality with a population of 250,000 or more. Certain land in a municipality's extraterritorial jurisdiction could be excluded from applicability.

Nueces County is currently the only county to which the specification applies that a county must be within 100 miles of the international border and that contains the majority of the area of a municipality with a population of more than 250,000.

The bill would also include Nueces County when addressing connection of utilities in counties within 50 miles of the Mexico border, and would add a new section to the Local Government Code that applies only to Nueces County regarding connection of utilities.

Nueces County would be included with international border counties with regard to lawsuits by private persons in economically distressed areas as those suits relate to the purchase of property that does not have water and sewer services and with regard to variance from platting requirements.

Additionally, the bill would amend the Government Code, the Utilities Code, and the Water Code to include Nueces County as a colonia, as a county relating to refusal or prohibition of service, and as a county eligible for financial assistance.

The bill would take effect September 1, 2005.

Local Government Impact

The changes to the Local Government Code that would apply to counties within 50 miles of an international border do not make substantial changes to how the code affects those counties; therefore, the fiscal impact would be insignificant.

The changes in the Local Government Code and the other codes listed would apply only to Nueces County. Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies: 307 Secretary of State

LBB Staff: JOB, DLBa

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 1, 2005

TO: Honorable Frank Madla, Chair, Senate Committee on Intergovernmental Relations

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB425 by Hinojosa (Relating to subdivision platting requirements and assistance for certain counties near an international border.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code relating to serving or connecting land with water, sewer, electricity, gas, or other utility service by a municipality, county, special district, or certain water supply or sewer service corporation to specify applicability in counties located within 50 miles of the border of Mexico and a county located within 150 miles of the international border and that contains a municipality with a population of 250,000 or more. Nueces County is currently the only county to which the specification of a county within 150 miles of the international border that has a municipality with a population of 250,000 or more applies.

The bill would also include Nueces County when addressing connection of utilities in counties within 50 miles of the Mexico border, and would add a new section to the Local Government Code that applies only to Nueces County regarding connection of utilities.

Nueces County would be included with international border counties with regard to lawsuits by private persons in economically distressed areas as those suits relate to the purchase of property that does not have water and sewer services and with regard to variance from platting requirements.

Additionally, the bill would amend the Government Code, the Utilities Code, and the Water Code to include Nueces County as a colonia, as a county relating to refusal or prohibition of service, and as a county eligible for financial assistance.

The bill would take effect September 1, 2005.

Local Government Impact

The changes to the Local Government Code that would apply to counties within 150 miles of an international border do not make substantial changes to how the code affects those counties; therefore, the fiscal impact would be insignificant.

The changes in the Local Government Code and the other codes listed would apply only to Nueces County. Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies: 307 Secretary of State

LBB Staff: JOB, DLBa

REQUEST FOR LOCAL & UNCONTESTED CALENDAR PLACEMENT.

SENATOR CHRIS HARRIS, CHAIRMAN
SENATE COMMITTEE ON ADMINISTRATION

Notice is hereby given that SB 425, by Hinojosa,
(Bill No.) (Author/Sponsor)

was heard by the Committee on IGR on 4/6,
2005,

and reported out with the recommendation that it be placed on the Local and Uncontested Calendar.

Christine Wright

(Clerk of the reporting committee)

IMPORTANT: A COPY OF THIS FORM MUST BE ATTACHED TO A **COMMITTEE PRINTED VERSION** OF THE BILL OR RESOLUTION AND SHOULD BE DELIVERED TO THE ADMINISTRATION COMMITTEE OFFICE, E1.714. DEADLINES FOR SUBMITTING BILLS AND RESOLUTIONS WILL BE ANNOUNCED ON A REGULAR BASIS.

ADOPTED

31-0
APR 21 2005

Lotay Spaw
Secretary of the Senate

By: Hinojosa, Ellis

S.B. No. 425

Substitute the following for S.B. No. 425:

By: *M. Gally*

C.S. S.B. No. 425

A BILL TO BE ENTITLED

AN ACT

relating to subdivision platting requirements and assistance for certain counties near an international border.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Subsection (c), (e), and (f),
SECTION 1. ~~Sections~~ 212.012 ~~(c), (e), and (f),~~ Local Government Code, are amended to read as follows:

(c) An entity described by Subsection (b) may serve or connect land with water, sewer, electricity, gas, or other utility service regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115 if:

(1) the land is covered by a development plat approved under Subchapter B or under an ordinance or rule relating to the development plat;

(2) the land was first served or connected with service by an entity described by Subsection (b)(1), (b)(2), or (b)(3) before September 1, 1987;

(3) the land was first served or connected with service by an entity described by Subsection (b)(4), (b)(5), or (b)(6) before September 1, 1989; or

(4) the municipal authority responsible for approving plats issues a certificate stating that:

(A) the land:

(i) [~~before September 1, 1995,~~] was sold or ^{1/2}

1 conveyed to the person requesting service by any means of
2 conveyance, including a contract for deed or executory contract,
3 before:

4 (a) September 1, 1995, in a county
5 defined under Section 232.022(a)(1); or

6 (b) September 1, 2005, in a county
7 defined under Section 232.022(a)(2);

8 (ii) is located in a subdivision in which
9 the entity has previously provided service;

10 (iii) is located outside the limits of the
11 municipality;

12 (iv) is located in a county to which
13 Subchapter B, Chapter 232, applies; and

14 (v) is the site of construction of a
15 residence, evidenced by at least the existence of a completed
16 foundation, that was begun on or before:

17 (a) May 1, 1997, in a county defined
18 under Section 232.022(a)(1); or

19 (b) September 1, 2005, in a county
20 defined under Section 232.022(a)(2); or

21 (B) the land was not subdivided after September
22 1, 1995, in a county defined under Section 232.022(a)(1), or
23 September 1, 2005, in a county defined under Section 232.022(a)(2),
24 and:

25 (i) water service is available within 750
26 feet of the subdivided land; or

27 (ii) water service is available more than $\frac{2}{3}$

1 750 feet from the subdivided land and the extension of water service
2 to the land may be feasible, subject to a final determination by the
3 water service provider.

4 (e) A person requesting service may obtain a certificate
5 under Subsection (c)(4)(A) only if the person provides to the
6 municipal authority responsible for approving plats either:

7 (1) a copy of the means of conveyance or other
8 documents that show that the land was sold or conveyed to the person
9 requesting service before September 1, 1995, or before September 1,
10 2005, as applicable, and a notarized affidavit by that person that
11 states that construction of a residence on the land, evidenced by at
12 least the existence of a completed foundation, was begun on or
13 before May 1, 1997, or on or before September 1, 2005, as
14 applicable; or

15 (2) a notarized affidavit by the person requesting
16 service that states that the property was sold or conveyed to that
17 person before September 1, 1995, or before September 1, 2005, as
18 applicable, and that construction of a residence on the land,
19 evidenced by at least the existence of a completed foundation, was
20 begun on or before May 1, 1997, or on or before September 1, 2005, as
21 applicable.

22 (f) A person requesting service may obtain a certificate
23 under Subsection (c)(4)(B) only if the person provides to the
24 municipal authority responsible for approving plats an affidavit
25 that states that the property was not sold or conveyed to that
26 person from a subdivider or the subdivider's agent after September
27 1, 1995, or after September 1, 2005, as applicable. / 3/4

1 SECTION 2. Section 232.022, Local Government Code, is
2 amended by amending Subsections (a) and (c) and adding Subsection
3 (c-1) to read as follows:

4 (a) This subchapter applies only to:

5 (1) a county any part of which is located within 50
6 miles of an international border; or

7 (2) a county:

8 (A) any part of which is located within 100 miles
9 of an international border;

10 (B) that contains the majority of the area of a
11 municipality with a population of more than 250,000; and

12 (C) to which Subdivision (1) does not apply.

13 (c) Except as provided by Subsection (c-1), for ~~For~~
14 purposes of this section, land is considered to be in the
15 jurisdiction of a county if the land is located in the county and
16 outside the corporate limits of municipalities.

17 (c-1) Land in a municipality's extraterritorial
18 jurisdiction is not considered to be in the jurisdiction of a county
19 for purposes of this section if the municipality and the county have
20 entered into a written agreement under Section 242.001 that
21 authorizes the municipality to regulate subdivision plats and
22 approve related permits in the municipality's extraterritorial
23 jurisdiction.

24 SECTION 3. The heading to Section 232.029, Local Government
25 Code, is amended to read as follows:

26 Sec. 232.029. CONNECTION OF UTILITIES IN COUNTIES WITHIN 50
27 MILES OF INTERNATIONAL BORDER. /

4/5

1 SECTION 4. Section 232.029, Local Government Code, is
2 amended by relettering Subsection (a) as Subsection (a-1) and
3 adding a new Subsection (a) to read as follows:

4 (a) This section applies only to a county defined under
5 Section 232.022(a)(1).

6 (a-1) Except as provided by Subsection (c) or Section
7 232.037(c), a utility may not serve or connect any subdivided land
8 with water or sewer services unless the utility receives a
9 certificate issued by the commissioners court under Section
10 232.028(a) or receives a determination from the commissioners court
11 under Section 232.028(b)(1) that the plat has been reviewed and
12 approved by the commissioners court.

13 SECTION 5. Subchapter B, Chapter 232, Local Government
14 Code, is amended by adding Section 232.0291 to read as follows:

15 Sec. 232.0291. CONNECTION OF UTILITIES IN CERTAIN COUNTIES
16 WITHIN 100 MILES OF INTERNATIONAL BORDER. (a) This section applies
17 only to a county defined under Section 232.022(a)(2).

18 (b) Except as provided by Subsection (d) or Section
19 232.037(c), a utility may not serve or connect any subdivided land
20 with water or sewer services unless the utility receives a
21 certificate issued by the commissioners court under Section
22 232.028(a) or receives a determination from the commissioners court
23 under Section 232.028(b)(1) that the plat has been reviewed and
24 approved by the commissioners court.

25 (c) Except as provided by Subsection (d) or Section
26 232.037(c), a utility may not serve or connect any subdivided land
27 with electricity or gas unless the entity receives a determination

1 from the county commissioners court under Section 232.028(b)(2)
2 that adequate water and sewer services have been installed to
3 service the subdivision.

4 (d) An electric, gas, water, or sewer service utility may
5 serve or connect subdivided land with water, sewer, electricity,
6 gas, or other utility service regardless of whether the utility
7 receives a certificate issued by the commissioners court under
8 Section 232.028(a) or receives a determination from the
9 commissioners court under Section 232.028(b) if the utility is
10 provided with a certificate issued by the commissioners court that
11 states that:

12 (1) the subdivided land:

13 (A) was sold or conveyed to the person requesting
14 service by any means of conveyance, including a contract for deed or
15 executory contract before September 1, 2005;

16 (B) is located in a subdivision in which the
17 utility has previously provided service; and

18 (C) is the site of construction of a residence,
19 evidenced by at least the existence of a completed foundation, that
20 was begun on or before September 1, 2005; or

21 (2) the subdivided land was not subdivided after
22 September 1, 2005, and:

23 (A) water service is available within 750 feet of
24 the subdivided land; or

25 (B) water service is available more than 750 feet
26 from the subdivided land and the extension of water service to the
27 land may be feasible, subject to a final determination by the water

1 service provider.

2 (e) A utility may provide utility service to subdivided land
3 described by Subsection (d)(1) only if the person requesting
4 service:

5 (1) is not the land's subdivider or the subdivider's
6 agent; and

7 (2) provides to the utility a certificate described by
8 Subsection (d)(1).

9 (f) A person requesting service may obtain a certificate
10 under Subsection (d)(1) only if the person provides to the
11 commissioners court either:

12 (1) documentation containing:

13 (A) a copy of the means of conveyance or other
14 documents that show that the land was sold or conveyed to the person
15 requesting service before September 1, 2005; and

16 (B) a notarized affidavit by that person that
17 states that construction of a residence on the land, evidenced by at
18 least the existence of a completed foundation, was begun on or
19 before September 1, 2005; or

20 (2) a notarized affidavit by the person requesting
21 service that states that:

22 (A) the property was sold or conveyed to that
23 person before September 1, 2005; and

24 (B) construction of a residence on the land,
25 evidenced by at least the existence of a completed foundation, was
26 begun on or before September 1, 2005.

27 (g) A person requesting service may obtain a certificate

1 under Subsection (d)(2) only if the person provides to the
2 commissioners court an affidavit that states that the property was
3 not sold or conveyed to that person from a subdivider or the
4 subdivider's agent after September 1, 2005.

5 (h) On request, the commissioners court shall provide to the
6 attorney general and any appropriate local, county, or state law
7 enforcement official a copy of any document on which the
8 commissioners court relied in determining the legality of providing
9 service.

10 (i) This section may not be construed to abrogate any civil
11 or criminal proceeding or prosecution or to waive any penalty
12 against a subdivider for a violation of a state or local law,
13 regardless of the date on which the violation occurred.

14 (j) The prohibition established by this section does not
15 prohibit an electric or gas utility from providing electric or gas
16 utility connection or service to a lot:

17 (1) sold, conveyed, or purchased through a contract
18 for deed or executory contract or other device by a subdivider
19 before September 1, 2005;

20 (2) located within a subdivision where the utility has
21 previously established service; and

22 (3) subdivided by a plat approved before September 1,
23 1989.

24 (k) In this section, "foundation" means the lowest division
25 of a residence, usually consisting of a masonry slab or a pier and
26 beam structure, that is partly or wholly below the surface of the
27 ground and on which the residential structure rests. / 2/4

1 SECTION 6. Section 232.031, Local Government Code, is
2 amended by amending Subsection (a) and adding Subsection (d) to
3 read as follows:

4 (a) Except as provided by Subsection (d), a [A] subdivider
5 may not sell or lease land in a subdivision first platted or
6 replatted after July 1, 1995, unless the subdivision plat is
7 approved by the commissioners court in accordance with Section
8 232.024.

9 (d) In a county defined under Section 232.022(a)(2), a
10 subdivider may not sell or lease land in a subdivision first platted
11 or replatted after September 1, 2005, unless the subdivision plat
12 is approved by the commissioners court in accordance with Section
13 232.024.

14 SECTION 7. Section 232.038, Local Government Code, is
15 amended to read as follows:

16 Sec. 232.038. SUIT BY PRIVATE PERSON IN ECONOMICALLY
17 DISTRESSED AREA. (a) Except as provided by Subsection (b), a [A]
18 person who has purchased or is purchasing a lot after July 1, 1995,
19 in a subdivision for residential purposes that does not have water
20 and sewer services as required by this subchapter and is located in
21 an economically distressed area, as defined by Section 17.921,
22 Water Code, from a subdivider, may bring suit in the district court
23 in which the property is located or in a district court in Travis
24 County to:

25 (1) declare the sale of the property void and require
26 the subdivider to return the purchase price of the property; and

27 (2) recover from the subdivider: /

9/10

1 (A) the market value of any permanent
2 improvements the person placed on the property;

3 (B) actual expenses incurred as a direct result
4 of the failure to provide adequate water and sewer facilities;

5 (C) court costs; and

6 (D) reasonable attorney's fees.

7 (b) If the lot is located in a county defined under Section
8 232.022(a)(2), a person may only bring suit under Subsection (a) if
9 the person purchased or is purchasing the lot after September 1,
10 2005.

11 SECTION 8. ^{Subsection (e),} Section 232.040 ^(e), Local Government Code, is
12 amended to read as follows:

13 (e) Existing utility services to a subdivision that must be
14 platted or replatted under this section may not be terminated under
15 Section 232.029 or 232.0291.

16 SECTION 9. ^{Subsection (b),} Section 232.043 ^(b), Local Government Code, is
17 amended to read as follows:

18 (b) If the commissioners court makes a written finding that
19 the subdivider who created the unplatted subdivision no longer owns
20 property in the subdivision, the commissioners court may grant a
21 delay or variance under this section only if:

22 (1) a majority of the lots in the subdivision were sold
23 before:

24 (A) September 1, 1995, in a county defined under
25 Section 232.022(a)(1); or

26 (B) September 1, 2005, in a county defined under
27 Section 232.022(a)(2); ^{v/u}

1 (2) a majority of the resident purchasers in the
2 subdivision sign a petition supporting the delay or variance;

3 (3) the person requesting the delay or variance
4 submits to the commissioners court:

5 (A) a description of the water and sewer service
6 facilities that will be constructed or installed to service the
7 subdivision;

8 (B) a statement specifying the date by which the
9 water and sewer service facilities will be fully operational; and

10 (C) a statement signed by an engineer licensed in
11 this state certifying that the plans for the water and sewer
12 facilities meet the minimum state standards;

13 (4) the commissioners court finds that the unplatted
14 subdivision at the time the delay or variance is requested is
15 developed in a manner and to an extent that compliance with specific
16 platting requirements is impractical or contrary to the health or
17 safety of the residents of the subdivision; and

18 (5) the subdivider who created the unplatted
19 subdivision has not violated local law, federal law, or state law,
20 excluding this chapter, in subdividing the land for which the delay
21 or variance is requested, if the subdivider is the person
22 requesting the delay or variance.

23 SECTION 10. Section 232.106, Local Government Code, is
24 amended to read as follows:

25 Sec. 232.106. CONNECTION OF UTILITIES. By an order adopted
26 and entered in the minutes of the commissioners court, and after a
27 notice is published in a newspaper of general circulation in the / 11/12

1 county, the commissioners court may impose the requirements of
2 Section 232.029 or 232.0291.

3 SECTION 11. ^{Subdivision (2),} Section 775.001~~(2)~~, Government Code, is amended
4 to read as follows:

5 (2) "Colonia" means a geographic area that:

6 (A) is an economically distressed area as defined
7 by Section 17.921, Water Code; and

8 (B) is:

9 (i) located in a county any part of which is
10 within 50 miles of an international border; or

11 (ii) located in a county:

12 (a) any part of which is within 100
13 miles of an international border; and

14 (b) that contains the majority of the
15 area of a municipality with a population of more than 250,000.

16 SECTION 12. Section 775.003, Government Code, is amended to
17 read as follows:

18 Sec. 775.003. COLONIA OMBUDSMAN PROGRAM. The colonia
19 initiatives coordinator may appoint a colonia ombudsman in:

20 (1) each of the six border counties that the
21 coordinator determines have the largest colonia populations; and

22 (2) each additional county any part of which is within
23 100 miles of an international border and that contains the majority
24 of the area of a municipality with a population of more than
25 250,000.

26 SECTION 13. Section 37.153, Utilities Code, is amended to
27 read as follows: /

12/13

1 Sec. 37.153. REQUIRED REFUSAL OF SERVICE. A certificate
2 holder shall refuse to serve a customer in the holder's
3 certificated area if the holder is prohibited from providing the
4 service under Section 212.012, ~~[or]~~ 232.029, or 232.0291, Local
5 Government Code.

6 SECTION 14. Section 54.254, Utilities Code, is amended to
7 read as follows:

8 Sec. 54.254. REQUIRED REFUSAL OF SERVICE. A holder of a
9 certificate of convenience and necessity, a certificate of
10 operating authority, or a service provider certificate of operating
11 authority shall refuse to serve a customer in the holder's
12 certificated area if the holder is prohibited from providing the
13 service under Section 212.012, ~~[or]~~ 232.029, or 232.0291, Local
14 Government Code.

15 SECTION 15. ^{Subdivision (1),} Section 16.341~~(1)~~, Water Code, is amended to
16 read as follows:

17 (1) "Affected county" means a county:

18 (A) that has a per capita income that averaged 25
19 percent below the state average for the most recent three
20 consecutive years for which statistics are available and an
21 unemployment rate that averaged 25 percent above the state average
22 for the most recent three consecutive years for which statistics
23 are available; ~~[or]~~

24 (B) that is adjacent to an international border;
25 or

26 (C) that is located in whole or in part within 100
27 miles of an international border and contains the majority of the /13/14

1 area of a municipality with a population of more than 250,000.

2 SECTION 16. Section 17.923, Water Code, is amended to read
3 as follows:

4 Sec. 17.923. COUNTY ELIGIBILITY FOR FINANCIAL ASSISTANCE.
5 To be eligible for financial assistance under this subchapter, a
6 county:

7 (1) must have a per capita income that averaged 25
8 percent below the state average for the most recent three
9 consecutive years for which statistics are available and an
10 unemployment rate that averaged 25 percent above the state average
11 for the most recent three consecutive years for which statistics
12 are available; ~~or~~

13 (2) must be located adjacent to an international
14 border; or

15 (3) must be located in whole or in part within 100
16 miles of an international border and contain the majority of the
17 area of a municipality with a population of more than 250,000.

18 SECTION 17. This Act takes effect September 1, 2005.

I certify this to be a true and correct
copy of the indicated document as
referred or transmitted to committee.

Chief Clerk of the House

By: Hinojosa, Ellis
(Luna, Seaman)

S.B. No. 425

A BILL TO BE ENTITLED

AN ACT

relating to subdivision platting requirements and assistance for
certain counties near an international border.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsections (c), (e), and (f), Section 212.012,
Local Government Code, are amended to read as follows:

(c) An entity described by Subsection (b) may serve or
connect land with water, sewer, electricity, gas, or other utility
service regardless of whether the entity is presented with or
otherwise holds a certificate applicable to the land issued under
Section 212.0115 if:

(1) the land is covered by a development plat approved
under Subchapter B or under an ordinance or rule relating to the
development plat;

(2) the land was first served or connected with
service by an entity described by Subsection (b)(1), (b)(2), or
(b)(3) before September 1, 1987;

(3) the land was first served or connected with
service by an entity described by Subsection (b)(4), (b)(5), or
(b)(6) before September 1, 1989; or

(4) the municipal authority responsible for approving
plats issues a certificate stating that:

(A) the land:

(i) [~~before September 1, 1995,~~] was sold or

conveyed to the person requesting service by any means of conveyance, including a contract for deed or executory contract, before:

(a) September 1, 1995, in a county defined under Section 232.022(a)(1); or

(b) September 1, 2005, in a county defined under Section 232.022(a)(2);

(ii) is located in a subdivision in which the entity has previously provided service;

(iii) is located outside the limits of the municipality;

(iv) is located in a county to which Subchapter B, Chapter 232, applies; and

(v) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun on or before:

(a) May 1, 1997, in a county defined under Section 232.022(a)(1); or

(b) September 1, 2005, in a county defined under Section 232.022(a)(2); or

(B) the land was not subdivided after September 1, 1995, in a county defined under Section 232.022(a)(1), or September 1, 2005, in a county defined under Section 232.022(a)(2), and:

(i) water service is available within 750 feet of the subdivided land; or

(ii) water service is available more than

1 750 feet from the subdivided land and the extension of water service
2 to the land may be feasible, subject to a final determination by the
3 water service provider.

4 (e) A person requesting service may obtain a certificate
5 under Subsection (c)(4)(A) only if the person provides to the
6 municipal authority responsible for approving plats either:

7 (1) a copy of the means of conveyance or other
8 documents that show that the land was sold or conveyed to the person
9 requesting service before September 1, 1995, or before September 1,
10 2005, as applicable, and a notarized affidavit by that person that
11 states that construction of a residence on the land, evidenced by at
12 least the existence of a completed foundation, was begun on or
13 before May 1, 1997, or on or before September 1, 2005, as
14 applicable; or

15 (2) a notarized affidavit by the person requesting
16 service that states that the property was sold or conveyed to that
17 person before September 1, 1995, or before September 1, 2005, as
18 applicable, and that construction of a residence on the land,
19 evidenced by at least the existence of a completed foundation, was
20 begun on or before May 1, 1997, or on or before September 1, 2005, as
21 applicable.

22 (f) A person requesting service may obtain a certificate
23 under Subsection (c)(4)(B) only if the person provides to the
24 municipal authority responsible for approving plats an affidavit
25 that states that the property was not sold or conveyed to that
26 person from a subdivider or the subdivider's agent after September
27 1, 1995, or after September 1, 2005, as applicable.

SECTION 2. Section 232.022, Local Government Code, is amended by amending Subsections (a) and (c) and adding Subsection (c-1) to read as follows:

(a) This subchapter applies only to:

(1) a county any part of which is located within 50 miles of an international border; or

(2) a county:

(A) any part of which is located within 100 miles of an international border;

(B) that contains the majority of the area of a municipality with a population of more than 250,000; and

(C) to which Subdivision (1) does not apply.

(c) Except as provided by Subsection (c-1), for ~~For~~ purposes of this section, land is considered to be in the jurisdiction of a county if the land is located in the county and outside the corporate limits of municipalities.

(c-1) Land in a municipality's extraterritorial jurisdiction is not considered to be in the jurisdiction of a county for purposes of this section if the municipality and the county have entered into a written agreement under Section 242.001 that authorizes the municipality to regulate subdivision plats and approve related permits in the municipality's extraterritorial jurisdiction.

SECTION 3. The heading to Section 232.029, Local Government Code, is amended to read as follows:

Sec. 232.029. CONNECTION OF UTILITIES IN COUNTIES WITHIN 50 MILES OF INTERNATIONAL BORDER.

1 SECTION 4. Section 232.029, Local Government Code, is
2 amended by relettering Subsection (a) as Subsection (a-1) and
3 adding a new Subsection (a) to read as follows:

4 (a) This section applies only to a county defined under
5 Section 232.022(a)(1).

6 (a-1) Except as provided by Subsection (c) or Section
7 232.037(c), a utility may not serve or connect any subdivided land
8 with water or sewer services unless the utility receives a
9 certificate issued by the commissioners court under Section
10 232.028(a) or receives a determination from the commissioners court
11 under Section 232.028(b)(1) that the plat has been reviewed and
12 approved by the commissioners court.

13 SECTION 5. Subchapter B, Chapter 232, Local Government
14 Code, is amended by adding Section 232.0291 to read as follows:

15 Sec. 232.0291. CONNECTION OF UTILITIES IN CERTAIN COUNTIES
16 WITHIN 100 MILES OF INTERNATIONAL BORDER. (a) This section
17 applies only to a county defined under Section 232.022(a)(2).

18 (b) Except as provided by Subsection (d) or Section
19 232.037(c), a utility may not serve or connect any subdivided land
20 with water or sewer services unless the utility receives a
21 certificate issued by the commissioners court under Section
22 232.028(a) or receives a determination from the commissioners court
23 under Section 232.028(b)(1) that the plat has been reviewed and
24 approved by the commissioners court.

25 (c) Except as provided by Subsection (d) or Section
26 232.037(c), a utility may not serve or connect any subdivided land
27 with electricity or gas unless the entity receives a determination

1 from the county commissioners court under Section 232.028(b)(2)
2 that adequate water and sewer services have been installed to
3 service the subdivision.

4 (d) An electric, gas, water, or sewer service utility may
5 serve or connect subdivided land with water, sewer, electricity,
6 gas, or other utility service regardless of whether the utility
7 receives a certificate issued by the commissioners court under
8 Section 232.028(a) or receives a determination from the
9 commissioners court under Section 232.028(b) if the utility is
10 provided with a certificate issued by the commissioners court that
11 states that:

12 (1) the subdivided land:

13 (A) was sold or conveyed to the person requesting
14 service by any means of conveyance, including a contract for deed or
15 executory contract before September 1, 2005;

16 (B) is located in a subdivision in which the
17 utility has previously provided service; and

18 (C) is the site of construction of a residence,
19 evidenced by at least the existence of a completed foundation, that
20 was begun on or before September 1, 2005; or

21 (2) the subdivided land was not subdivided after
22 September 1, 2005, and:

23 (A) water service is available within 750 feet of
24 the subdivided land; or

25 (B) water service is available more than 750 feet
26 from the subdivided land and the extension of water service to the
27 land may be feasible, subject to a final determination by the water

1 service provider.

2 (e) A utility may provide utility service to subdivided land
3 described by Subsection (d)(1) only if the person requesting
4 service:

5 (1) is not the land's subdivider or the subdivider's
6 agent; and

7 (2) provides to the utility a certificate described by
8 Subsection (d)(1).

9 (f) A person requesting service may obtain a certificate
10 under Subsection (d)(1) only if the person provides to the
11 commissioners court either:

12 (1) documentation containing:

13 (A) a copy of the means of conveyance or other
14 documents that show that the land was sold or conveyed to the person
15 requesting service before September 1, 2005; and

16 (B) a notarized affidavit by that person that
17 states that construction of a residence on the land, evidenced by at
18 least the existence of a completed foundation, was begun on or
19 before September 1, 2005; or

20 (2) a notarized affidavit by the person requesting
21 service that states that:

22 (A) the property was sold or conveyed to that
23 person before September 1, 2005; and

24 (B) construction of a residence on the land,
25 evidenced by at least the existence of a completed foundation, was
26 begun on or before September 1, 2005.

27 (g) A person requesting service may obtain a certificate

1 under Subsection (d)(2) only if the person provides to the
2 commissioners court an affidavit that states that the property was
3 not sold or conveyed to that person from a subdivider or the
4 subdivider's agent after September 1, 2005.

5 (h) On request, the commissioners court shall provide to the
6 attorney general and any appropriate local, county, or state law
7 enforcement official a copy of any document on which the
8 commissioners court relied in determining the legality of providing
9 service.

10 (i) This section may not be construed to abrogate any civil
11 or criminal proceeding or prosecution or to waive any penalty
12 against a subdivider for a violation of a state or local law,
13 regardless of the date on which the violation occurred.

14 (j) The prohibition established by this section does not
15 prohibit an electric or gas utility from providing electric or gas
16 utility connection or service to a lot:

17 (1) sold, conveyed, or purchased through a contract
18 for deed or executory contract or other device by a subdivider
19 before September 1, 2005;

20 (2) located within a subdivision where the utility has
21 previously established service; and

22 (3) subdivided by a plat approved before September 1,
23 1989.

24 (k) In this section, "foundation" means the lowest division
25 of a residence, usually consisting of a masonry slab or a pier and
26 beam structure, that is partly or wholly below the surface of the
27 ground and on which the residential structure rests.

SECTION 6. Section 232.031, Local Government Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsection (d), a [A] subdivider may not sell or lease land in a subdivision first platted or replatted after July 1, 1995, unless the subdivision plat is approved by the commissioners court in accordance with Section 232.024.

(d) In a county defined under Section 232.022(a)(2), a subdivider may not sell or lease land in a subdivision first platted or replatted after September 1, 2005, unless the subdivision plat is approved by the commissioners court in accordance with Section 232.024.

SECTION 7. Section 232.038, Local Government Code, is amended to read as follows:

Sec. 232.038. SUIT BY PRIVATE PERSON IN ECONOMICALLY DISTRESSED AREA. (a) Except as provided by Subsection (b), a [A] person who has purchased or is purchasing a lot after July 1, 1995, in a subdivision for residential purposes that does not have water and sewer services as required by this subchapter and is located in an economically distressed area, as defined by Section 17.921, Water Code, from a subdivider, may bring suit in the district court in which the property is located or in a district court in Travis County to:

(1) declare the sale of the property void and require the subdivider to return the purchase price of the property; and

(2) recover from the subdivider:

(A) the market value of any permanent improvements the person placed on the property;

(B) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;

(C) court costs; and

(D) reasonable attorney's fees.

(b) If the lot is located in a county defined under Section 232.022(a)(2), a person may only bring suit under Subsection (a) if the person purchased or is purchasing the lot after September 1, 2005.

SECTION 8. Subsection (e), Section 232.040, Local Government Code, is amended to read as follows:

(e) Existing utility services to a subdivision that must be platted or replatted under this section may not be terminated under Section 232.029 or 232.0291.

SECTION 9. Subsection (b), Section 232.043, Local Government Code, is amended to read as follows:

(b) If the commissioners court makes a written finding that the subdivider who created the unplatted subdivision no longer owns property in the subdivision, the commissioners court may grant a delay or variance under this section only if:

(1) a majority of the lots in the subdivision were sold before:

(A) September 1, 1995, in a county defined under Section 232.022(a)(1); or

(B) September 1, 2005, in a county defined under Section 232.022(a)(2);

1 (2) a majority of the resident purchasers in the
2 subdivision sign a petition supporting the delay or variance;

3 (3) the person requesting the delay or variance
4 submits to the commissioners court:

5 (A) a description of the water and sewer service
6 facilities that will be constructed or installed to service the
7 subdivision;

8 (B) a statement specifying the date by which the
9 water and sewer service facilities will be fully operational; and

10 (C) a statement signed by an engineer licensed in
11 this state certifying that the plans for the water and sewer
12 facilities meet the minimum state standards;

13 (4) the commissioners court finds that the unplatted
14 subdivision at the time the delay or variance is requested is
15 developed in a manner and to an extent that compliance with specific
16 platting requirements is impractical or contrary to the health or
17 safety of the residents of the subdivision; and

18 (5) the subdivider who created the unplatted
19 subdivision has not violated local law, federal law, or state law,
20 excluding this chapter, in subdividing the land for which the delay
21 or variance is requested, if the subdivider is the person
22 requesting the delay or variance.

23 SECTION 10. Section 232.106, Local Government Code, is
24 amended to read as follows:

25 Sec. 232.106. CONNECTION OF UTILITIES. By an order adopted
26 and entered in the minutes of the commissioners court, and after a
27 notice is published in a newspaper of general circulation in the

1 county, the commissioners court may impose the requirements of
2 Section 232.029 or 232.0291.

3 SECTION 11. Subdivision (2), Section 775.001, Government
4 Code, is amended to read as follows:

5 (2) "Colonia" means a geographic area that:

6 (A) is an economically distressed area as defined
7 by Section 17.921, Water Code; and

8 (B) is:

9 (i) located in a county any part of which is
10 within 50 miles of an international border; or

11 (ii) located in a county:

12 (a) any part of which is within 100
13 miles of an international border; and

14 (b) that contains the majority of the
15 area of a municipality with a population of more than 250,000.

16 SECTION 12. Section 775.003, Government Code, is amended to
17 read as follows:

18 Sec. 775.003. COLONIA OMBUDSMAN PROGRAM. The colonia
19 initiatives coordinator may appoint a colonia ombudsman in:

20 (1) each of the six border counties that the
21 coordinator determines have the largest colonia populations; and

22 (2) each additional county any part of which is within
23 100 miles of an international border and that contains the majority
24 of the area of a municipality with a population of more than
25 250,000.

26 SECTION 13. Section 37.153, Utilities Code, is amended to
27 read as follows:

1 Sec. 37.153. REQUIRED REFUSAL OF SERVICE. A certificate
2 holder shall refuse to serve a customer in the holder's
3 certificated area if the holder is prohibited from providing the
4 service under Section 212.012, ~~[or]~~ 232.029, or 232.0291, Local
5 Government Code.

6 SECTION 14. Section 54.254, Utilities Code, is amended to
7 read as follows:

8 Sec. 54.254. REQUIRED REFUSAL OF SERVICE. A holder of a
9 certificate of convenience and necessity, a certificate of
10 operating authority, or a service provider certificate of operating
11 authority shall refuse to serve a customer in the holder's
12 certificated area if the holder is prohibited from providing the
13 service under Section 212.012, ~~[or]~~ 232.029, or 232.0291, Local
14 Government Code.

15 SECTION 15. Subdivision (1), Section 16.341, Water Code, is
16 amended to read as follows:

17 (1) "Affected county" means a county:

18 (A) that has a per capita income that averaged 25
19 percent below the state average for the most recent three
20 consecutive years for which statistics are available and an
21 unemployment rate that averaged 25 percent above the state average
22 for the most recent three consecutive years for which statistics
23 are available; ~~[or]~~

24 (B) that is adjacent to an international border;
25 or

26 (C) that is located in whole or in part within 100
27 miles of an international border and contains the majority of the

1 area of a municipality with a population of more than 250,000.

2 SECTION 16. Section 17.923, Water Code, is amended to read
3 as follows:

4 Sec. 17.923. COUNTY ELIGIBILITY FOR FINANCIAL ASSISTANCE.
5 To be eligible for financial assistance under this subchapter, a
6 county:

7 (1) must have a per capita income that averaged 25
8 percent below the state average for the most recent three
9 consecutive years for which statistics are available and an
10 unemployment rate that averaged 25 percent above the state average
11 for the most recent three consecutive years for which statistics
12 are available; ~~or~~

13 (2) must be located adjacent to an international
14 border; or

15 (3) must be located in whole or in part within 100
16 miles of an international border and contain the majority of the
17 area of a municipality with a population of more than 250,000.

18 SECTION 17. This Act takes effect September 1, 2005.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 7, 2005

TO: Honorable Frank Madla, Chair, Senate Committee on Intergovernmental Relations

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB425 by Hinojosa (Relating to subdivision platting requirements and assistance for certain counties near an international border.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code relating to serving or connecting land with water, sewer, electricity, gas, or other utility service by a municipality, county, special district, or certain water supply or sewer service corporation to specify applicability in counties located within 50 miles of the border of Mexico and a county located within 100 miles of the international border and that contains the majority of the area of a municipality with a population of 250,000 or more. Certain land in a municipality's extraterritorial jurisdiction could be excluded from applicability.

Nueces County is currently the only county to which the specification applies that a county must be within 100 miles of the international border and that contains the majority of the area of a municipality with a population of more than 250,000.

The bill would also include Nueces County when addressing connection of utilities in counties within 50 miles of the Mexico border, and would add a new section to the Local Government Code that applies only to Nueces County regarding connection of utilities.

Nueces County would be included with international border counties with regard to lawsuits by private persons in economically distressed areas as those suits relate to the purchase of property that does not have water and sewer services and with regard to variance from platting requirements.

Additionally, the bill would amend the Government Code, the Utilities Code, and the Water Code to include Nueces County as a colonia, as a county relating to refusal or prohibition of service, and as a county eligible for financial assistance.

The bill would take effect September 1, 2005.

Local Government Impact

The changes to the Local Government Code that would apply to counties within 50 miles of an international border do not make substantial changes to how the code affects those counties; therefore, the fiscal impact would be insignificant.

The changes in the Local Government Code and the other codes listed would apply only to Nueces County. Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies: 307 Secretary of State

LBB Staff: JOB, DLBa

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 1, 2005

TO: Honorable Frank Madla, Chair, Senate Committee on Intergovernmental Relations

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB425 by Hinojosa (Relating to subdivision platting requirements and assistance for certain counties near an international border.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code relating to serving or connecting land with water, sewer, electricity, gas, or other utility service by a municipality, county, special district, or certain water supply or sewer service corporation to specify applicability in counties located within 50 miles of the border of Mexico and a county located within 150 miles of the international border and that contains a municipality with a population of 250,000 or more. Nueces County is currently the only county to which the specification of a county within 150 miles of the international border that has a municipality with a population of 250,000 or more applies.

The bill would also include Nueces County when addressing connection of utilities in counties within 50 miles of the Mexico border, and would add a new section to the Local Government Code that applies only to Nueces County regarding connection of utilities.

Nueces County would be included with international border counties with regard to lawsuits by private persons in economically distressed areas as those suits relate to the purchase of property that does not have water and sewer services and with regard to variance from platting requirements.

Additionally, the bill would amend the Government Code, the Utilities Code, and the Water Code to include Nueces County as a colonia, as a county relating to refusal or prohibition of service, and as a county eligible for financial assistance.

The bill would take effect September 1, 2005.

Local Government Impact

The changes to the Local Government Code that would apply to counties within 150 miles of an international border do not make substantial changes to how the code affects those counties; therefore, the fiscal impact would be insignificant.

The changes in the Local Government Code and the other codes listed would apply only to Nueces County. Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies: 307 Secretary of State

LBB Staff: JOB, DLBa

HOUSE COMMITTEE REPORT

05 MAY 20 AM 12:18
HOUSE OF REPRESENTATIVES

1st Printing

By: Hinojosa, Ellis
(Luna, Seaman)

S.B. No. 425

A BILL TO BE ENTITLED

AN ACT

relating to subdivision platting requirements and assistance for
certain counties near an international border.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsections (c), (e), and (f), Section 212.012,
Local Government Code, are amended to read as follows:

(c) An entity described by Subsection (b) may serve or
connect land with water, sewer, electricity, gas, or other utility
service regardless of whether the entity is presented with or
otherwise holds a certificate applicable to the land issued under
Section 212.0115 if:

(1) the land is covered by a development plat approved
under Subchapter B or under an ordinance or rule relating to the
development plat;

(2) the land was first served or connected with
service by an entity described by Subsection (b)(1), (b)(2), or
(b)(3) before September 1, 1987;

(3) the land was first served or connected with
service by an entity described by Subsection (b)(4), (b)(5), or
(b)(6) before September 1, 1989; or

(4) the municipal authority responsible for approving
plats issues a certificate stating that:

(A) the land:

(i) [~~before September 1, 1995,~~] was sold or

conveyed to the person requesting service by any means of conveyance, including a contract for deed or executory contract, before:

(a) September 1, 1995, in a county defined under Section 232.022(a)(1); or

(b) September 1, 2005, in a county defined under Section 232.022(a)(2);

(ii) is located in a subdivision in which the entity has previously provided service;

(iii) is located outside the limits of the municipality;

(iv) is located in a county to which Subchapter B, Chapter 232, applies; and

(v) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun on or before:

(a) May 1, 1997, in a county defined under Section 232.022(a)(1); or

(b) September 1, 2005, in a county defined under Section 232.022(a)(2); or

(B) the land was not subdivided after September 1, 1995, in a county defined under Section 232.022(a)(1), or September 1, 2005, in a county defined under Section 232.022(a)(2), and:

(i) water service is available within 750 feet of the subdivided land; or

(ii) water service is available more than

1 750 feet from the subdivided land and the extension of water service
2 to the land may be feasible, subject to a final determination by the
3 water service provider.

4 (e) A person requesting service may obtain a certificate
5 under Subsection (c)(4)(A) only if the person provides to the
6 municipal authority responsible for approving plats either:

7 (1) a copy of the means of conveyance or other
8 documents that show that the land was sold or conveyed to the person
9 requesting service before September 1, 1995, or before September 1,
10 2005, as applicable, and a notarized affidavit by that person that
11 states that construction of a residence on the land, evidenced by at
12 least the existence of a completed foundation, was begun on or
13 before May 1, 1997, or on or before September 1, 2005, as
14 applicable; or

15 (2) a notarized affidavit by the person requesting
16 service that states that the property was sold or conveyed to that
17 person before September 1, 1995, or before September 1, 2005, as
18 applicable, and that construction of a residence on the land,
19 evidenced by at least the existence of a completed foundation, was
20 begun on or before May 1, 1997, or on or before September 1, 2005, as
21 applicable.

22 (f) A person requesting service may obtain a certificate
23 under Subsection (c)(4)(B) only if the person provides to the
24 municipal authority responsible for approving plats an affidavit
25 that states that the property was not sold or conveyed to that
26 person from a subdivider or the subdivider's agent after September
27 1, 1995, or after September 1, 2005, as applicable.

SECTION 2. Section 232.022, Local Government Code, is amended by amending Subsections (a) and (c) and adding Subsection (c-1) to read as follows:

(a) This subchapter applies only to:

(1) a county any part of which is located within 50 miles of an international border; or

(2) a county:

(A) any part of which is located within 100 miles of an international border;

(B) that contains the majority of the area of a municipality with a population of more than 250,000; and

(C) to which Subdivision (1) does not apply.

(c) Except as provided by Subsection (c-1), for [For] purposes of this section, land is considered to be in the jurisdiction of a county if the land is located in the county and outside the corporate limits of municipalities.

(c-1) Land in a municipality's extraterritorial jurisdiction is not considered to be in the jurisdiction of a county for purposes of this section if the municipality and the county have entered into a written agreement under Section 242.001 that authorizes the municipality to regulate subdivision plats and approve related permits in the municipality's extraterritorial jurisdiction.

SECTION 3. The heading to Section 232.029, Local Government Code, is amended to read as follows:

Sec. 232.029. CONNECTION OF UTILITIES IN COUNTIES WITHIN 50 MILES OF INTERNATIONAL BORDER.

1 SECTION 4. Section 232.029, Local Government Code, is
2 amended by relettering Subsection (a) as Subsection (a-1) and
3 adding a new Subsection (a) to read as follows:

4 (a) This section applies only to a county defined under
5 Section 232.022(a)(1).

6 (a-1) Except as provided by Subsection (c) or Section
7 232.037(c), a utility may not serve or connect any subdivided land
8 with water or sewer services unless the utility receives a
9 certificate issued by the commissioners court under Section
10 232.028(a) or receives a determination from the commissioners court
11 under Section 232.028(b)(1) that the plat has been reviewed and
12 approved by the commissioners court.

13 SECTION 5. Subchapter B, Chapter 232, Local Government
14 Code, is amended by adding Section 232.0291 to read as follows:

15 Sec. 232.0291. CONNECTION OF UTILITIES IN CERTAIN COUNTIES
16 WITHIN 100 MILES OF INTERNATIONAL BORDER. (a) This section
17 applies only to a county defined under Section 232.022(a)(2).

18 (b) Except as provided by Subsection (d) or Section
19 232.037(c), a utility may not serve or connect any subdivided land
20 with water or sewer services unless the utility receives a
21 certificate issued by the commissioners court under Section
22 232.028(a) or receives a determination from the commissioners court
23 under Section 232.028(b)(1) that the plat has been reviewed and
24 approved by the commissioners court.

25 (c) Except as provided by Subsection (d) or Section
26 232.037(c), a utility may not serve or connect any subdivided land
27 with electricity or gas unless the entity receives a determination

1 from the county commissioners court under Section 232.028(b)(2)
2 that adequate water and sewer services have been installed to
3 service the subdivision.

4 (d) An electric, gas, water, or sewer service utility may
5 serve or connect subdivided land with water, sewer, electricity,
6 gas, or other utility service regardless of whether the utility
7 receives a certificate issued by the commissioners court under
8 Section 232.028(a) or receives a determination from the
9 commissioners court under Section 232.028(b) if the utility is
10 provided with a certificate issued by the commissioners court that
11 states that:

12 (1) the subdivided land:

13 (A) was sold or conveyed to the person requesting
14 service by any means of conveyance, including a contract for deed or
15 executory contract before September 1, 2005;

16 (B) is located in a subdivision in which the
17 utility has previously provided service; and

18 (C) is the site of construction of a residence,
19 evidenced by at least the existence of a completed foundation, that
20 was begun on or before September 1, 2005; or

21 (2) the subdivided land was not subdivided after
22 September 1, 2005, and:

23 (A) water service is available within 750 feet of
24 the subdivided land; or

25 (B) water service is available more than 750 feet
26 from the subdivided land and the extension of water service to the
27 land may be feasible, subject to a final determination by the water

1 service provider.

2 (e) A utility may provide utility service to subdivided land
3 described by Subsection (d)(1) only if the person requesting
4 service:

5 (1) is not the land's subdivider or the subdivider's
6 agent; and

7 (2) provides to the utility a certificate described by
8 Subsection (d)(1).

9 (f) A person requesting service may obtain a certificate
10 under Subsection (d)(1) only if the person provides to the
11 commissioners court either:

12 (1) documentation containing:

13 (A) a copy of the means of conveyance or other
14 documents that show that the land was sold or conveyed to the person
15 requesting service before September 1, 2005; and

16 (B) a notarized affidavit by that person that
17 states that construction of a residence on the land, evidenced by at
18 least the existence of a completed foundation, was begun on or
19 before September 1, 2005; or

20 (2) a notarized affidavit by the person requesting
21 service that states that:

22 (A) the property was sold or conveyed to that
23 person before September 1, 2005; and

24 (B) construction of a residence on the land,
25 evidenced by at least the existence of a completed foundation, was
26 begun on or before September 1, 2005.

27 (g) A person requesting service may obtain a certificate

1 under Subsection (d)(2) only if the person provides to the
2 commissioners court an affidavit that states that the property was
3 not sold or conveyed to that person from a subdivider or the
4 subdivider's agent after September 1, 2005.

5 (h) On request, the commissioners court shall provide to the
6 attorney general and any appropriate local, county, or state law
7 enforcement official a copy of any document on which the
8 commissioners court relied in determining the legality of providing
9 service.

10 (i) This section may not be construed to abrogate any civil
11 or criminal proceeding or prosecution or to waive any penalty
12 against a subdivider for a violation of a state or local law,
13 regardless of the date on which the violation occurred.

14 (j) The prohibition established by this section does not
15 prohibit an electric or gas utility from providing electric or gas
16 utility connection or service to a lot:

17 (1) sold, conveyed, or purchased through a contract
18 for deed or executory contract or other device by a subdivider
19 before September 1, 2005;

20 (2) located within a subdivision where the utility has
21 previously established service; and

22 (3) subdivided by a plat approved before September 1,
23 1989.

24 (k) In this section, "foundation" means the lowest division
25 of a residence, usually consisting of a masonry slab or a pier and
26 beam structure, that is partly or wholly below the surface of the
27 ground and on which the residential structure rests.

SECTION 6. Section 232.031, Local Government Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsection (d), a [A] subdivider may not sell or lease land in a subdivision first platted or replatted after July 1, 1995, unless the subdivision plat is approved by the commissioners court in accordance with Section 232.024.

(d) In a county defined under Section 232.022(a)(2), a subdivider may not sell or lease land in a subdivision first platted or replatted after September 1, 2005, unless the subdivision plat is approved by the commissioners court in accordance with Section 232.024.

SECTION 7. Section 232.038, Local Government Code, is amended to read as follows:

Sec. 232.038. SUIT BY PRIVATE PERSON IN ECONOMICALLY DISTRESSED AREA. (a) Except as provided by Subsection (b), a [A] person who has purchased or is purchasing a lot after July 1, 1995, in a subdivision for residential purposes that does not have water and sewer services as required by this subchapter and is located in an economically distressed area, as defined by Section 17.921, Water Code, from a subdivider, may bring suit in the district court in which the property is located or in a district court in Travis County to:

(1) declare the sale of the property void and require the subdivider to return the purchase price of the property; and

(2) recover from the subdivider:

(A) the market value of any permanent improvements the person placed on the property;

(B) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;

(C) court costs; and

(D) reasonable attorney's fees.

(b) If the lot is located in a county defined under Section 232.022(a)(2), a person may only bring suit under Subsection (a) if the person purchased or is purchasing the lot after September 1, 2005.

SECTION 8. Subsection (e), Section 232.040, Local Government Code, is amended to read as follows:

(e) Existing utility services to a subdivision that must be platted or replatted under this section may not be terminated under Section 232.029 or 232.0291.

SECTION 9. Subsection (b), Section 232.043, Local Government Code, is amended to read as follows:

(b) If the commissioners court makes a written finding that the subdivider who created the unplatted subdivision no longer owns property in the subdivision, the commissioners court may grant a delay or variance under this section only if:

(1) a majority of the lots in the subdivision were sold before:

(A) September 1, 1995, in a county defined under Section 232.022(a)(1); or

(B) September 1, 2005, in a county defined under Section 232.022(a)(2);

1 (2) a majority of the resident purchasers in the
2 subdivision sign a petition supporting the delay or variance;

3 (3) the person requesting the delay or variance
4 submits to the commissioners court:

5 (A) a description of the water and sewer service
6 facilities that will be constructed or installed to service the
7 subdivision;

8 (B) a statement specifying the date by which the
9 water and sewer service facilities will be fully operational; and

10 (C) a statement signed by an engineer licensed in
11 this state certifying that the plans for the water and sewer
12 facilities meet the minimum state standards;

13 (4) the commissioners court finds that the unplatted
14 subdivision at the time the delay or variance is requested is
15 developed in a manner and to an extent that compliance with specific
16 platting requirements is impractical or contrary to the health or
17 safety of the residents of the subdivision; and

18 (5) the subdivider who created the unplatted
19 subdivision has not violated local law, federal law, or state law,
20 excluding this chapter, in subdividing the land for which the delay
21 or variance is requested, if the subdivider is the person
22 requesting the delay or variance.

23 SECTION 10. Section 232.106, Local Government Code, is
24 amended to read as follows:

25 Sec. 232.106. CONNECTION OF UTILITIES. By an order adopted
26 and entered in the minutes of the commissioners court, and after a
27 notice is published in a newspaper of general circulation in the

1 county, the commissioners court may impose the requirements of
2 Section 232.029 or 232.0291.

3 SECTION 11. Subdivision (2), Section 775.001, Government
4 Code, is amended to read as follows:

5 (2) "Colonia" means a geographic area that:

6 (A) is an economically distressed area as defined
7 by Section 17.921, Water Code; and

8 (B) is:

9 (i) located in a county any part of which is
10 within 50 miles of an international border; or

11 (ii) located in a county:

12 (a) any part of which is within 100
13 miles of an international border; and

14 (b) that contains the majority of the
15 area of a municipality with a population of more than 250,000.

16 SECTION 12. Section 775.003, Government Code, is amended to
17 read as follows:

18 Sec. 775.003. COLONIA OMBUDSMAN PROGRAM. The colonia
19 initiatives coordinator may appoint a colonia ombudsman in:

20 (1) each of the six border counties that the
21 coordinator determines have the largest colonia populations; and

22 (2) each additional county any part of which is within
23 100 miles of an international border and that contains the majority
24 of the area of a municipality with a population of more than
25 250,000.

26 SECTION 13. Section 37.153, Utilities Code, is amended to
27 read as follows:

1 Sec. 37.153. REQUIRED REFUSAL OF SERVICE. A certificate
2 holder shall refuse to serve a customer in the holder's
3 certificated area if the holder is prohibited from providing the
4 service under Section 212.012, ~~[or]~~ 232.029, or 232.0291, Local
5 Government Code.

6 SECTION 14. Section 54.254, Utilities Code, is amended to
7 read as follows:

8 Sec. 54.254. REQUIRED REFUSAL OF SERVICE. A holder of a
9 certificate of convenience and necessity, a certificate of
10 operating authority, or a service provider certificate of operating
11 authority shall refuse to serve a customer in the holder's
12 certificated area if the holder is prohibited from providing the
13 service under Section 212.012, ~~[or]~~ 232.029, or 232.0291, Local
14 Government Code.

15 SECTION 15. Subdivision (1), Section 16.341, Water Code, is
16 amended to read as follows:

17 (1) "Affected county" means a county:

18 (A) that has a per capita income that averaged 25
19 percent below the state average for the most recent three
20 consecutive years for which statistics are available and an
21 unemployment rate that averaged 25 percent above the state average
22 for the most recent three consecutive years for which statistics
23 are available; ~~[or]~~

24 (B) that is adjacent to an international border;
25 or

26 (C) that is located in whole or in part within 100
27 miles of an international border and contains the majority of the

S.B. No. 425

1 area of a municipality with a population of more than 250,000.

2 SECTION 16. Section 17.923, Water Code, is amended to read
3 as follows:

4 Sec. 17.923. COUNTY ELIGIBILITY FOR FINANCIAL ASSISTANCE.
5 To be eligible for financial assistance under this subchapter, a
6 county:

7 (1) must have a per capita income that averaged 25
8 percent below the state average for the most recent three
9 consecutive years for which statistics are available and an
10 unemployment rate that averaged 25 percent above the state average
11 for the most recent three consecutive years for which statistics
12 are available; ~~or~~

13 (2) must be located adjacent to an international
14 border; or

15 (3) must be located in whole or in part within 100
16 miles of an international border and contain the majority of the
17 area of a municipality with a population of more than 250,000.

18 SECTION 17. This Act takes effect September 1, 2005.

COMMITTEE REPORT

The Honorable Tom Craddick
Speaker of the House of Representatives

5/18/05
(date)

Sir:

We, your COMMITTEE ON BORDER AND INTERNATIONAL AFFAIRS

to whom was referred SB 425 have had the same under consideration and beg to report back with the recommendation that it

- ☒ do pass, without amendment.
☐ do pass, with amendment(s).
☐ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
- ☒ yes ☐ no A fiscal note was requested.
☐ yes ☒ no A criminal justice policy impact statement was requested.
☐ yes ☒ no An equalized educational funding impact statement was requested.
☐ yes ☒ no An actuarial analysis was requested.
☐ yes ☒ no A water development policy impact statement was requested.
☐ yes ☒ no A tax equity note was requested.
- ☒ The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor LUNA

Joint Sponsors: Seaman / /

Co-Sponsors: _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Chavez, Chair	<input checked="" type="checkbox"/>			
Griggs, Vice-chair	<input checked="" type="checkbox"/>			
Alonzo	<input checked="" type="checkbox"/>			
Castro	<input checked="" type="checkbox"/>			
Merritt	<input checked="" type="checkbox"/>			
Moreno, J.				
Vo	<input checked="" type="checkbox"/>			

Total

6 aye
0 nay
0 present, not voting
0 absent

CHAIR

Norma Chavez

BILL ANALYSIS

S.B. 425
By: Hinojosa
Border and International Affairs
Engrossed

BACKGROUND AND PURPOSE

Current law regulating colonias is only applicable to counties within 50 miles of the Texas-Mexico border, yet some colonias exist outside of that region. Texas A&M University engineers approximate that close to 90 colonias exist in Nueces County alone, with living conditions in these colonias similar to that of third world countries.

Senate Bill 425 allows a county that is located within 100 miles of an international border and that contains a city with a population of more than 250,000 to regulate subdivision platting requirements and utility services and receive assistance from the state.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1 Amends Sections 212.012(c), (e), and (f), Local Government Code, to authorize the following entities:

- a municipality and officials of a municipality that provides water, sewer, electricity, gas, or other utility service;
- a municipally owned or municipally operated utility that provides any of those services;
- a public utility that provides any of those services;
- a water supply or sewer service corporation organized and operating under Chapter 67, Water Code, that provides any of those services;
- a county that provides any of those services; and
- a special district or authority created by or under state law that provides any of those services

to serve or connect land with water, sewer, electricity, gas, or other utility service regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115, Local Government Code, if the municipal authority responsible for approving plats issues a certificate stating that the land:

- 1) was sold or conveyed to the person requesting service by any means of conveyance, including a contract for deed or executory contract, before September 1, 1995, in a county any part of which is located within 50 miles of an international border or before September 1, 2005, in a county any part of which is located within 100 miles of an international border that contains the majority of a municipality with a population of more than 250,000;
- 2) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun on or before May 1, 1997 under Section 232.022(a)(1), Local Government Code, or September 1, 2005, in a county defined under Section 232.022(a)(2), Local Government Code; or
- 3) was not subdivided after September 1, 1995, in a county defined under Section 232.022(a)(1), Local Government Code, or September 1, 2005, in a county defined under Section 232.022(a)(2), Local Government Code, and certain conditions exist relating to the availability of water service.

Amends Subsections (e) and (f) of Section 212.012, Local Government Code, to make conforming and nonsubstantive changes.

SECTION 2 Amends Section 232.022, Local Government, by amending Subsections (a) and (c) and adding Subsection (c-1).

Provides that Subchapter B, Chapter 232, Local Government Code, applies only to a county any part of which is located within 50 miles of an international border or any part of which is located within 100 miles if an international border that contains the majority of a municipality with a population of more than 250,000

Provides that, except as provided by Subsection (c-1), for the purposes of this section, land is considered to be in the jurisdiction of a county if the land is located in the county and outside the corporate limits of the municipalities. Subsection (c-1) provides that the land in a municipality's extraterritorial jurisdiction is not considered to be in the jurisdiction of a county for the purposes of this section if the municipality and the county have entered into a written agreement under Section 242.001, Local and Government Code, that authorizes the municipality to regulate subdivision plats and approve related permits in the municipality's extraterritorial jurisdiction.

SECTION 3 Amends the heading to Section 232.029, Local Government Code, to read as follows:

Sec. 232.029. CONNECTION OF UTILITIES IN COUNTIES WITHIN 50 MILES OF INTERNATIONAL BORDER.

SECTION 4 Amends Section 232.029, Local Government Code, by relettering Subsection (a) as Subsection (a-1) and adding a new Subsection (a) to provide that Section 232.029, Local Government Code, only applies to a county defined under Section 232.022(a)(1), Local Government Code.

SECTION 5 Amends Subchapter B, Chapter 232, by adding Section 232.0291, Local Government Code, relating to the connection of utilities in certain counties within 100 miles of the international border.

Provides that Section 232.0291, Local Government Code, applies only to a county defined under Section 232.022(a)(2), Local Government Code.

Prohibits a utility, except as provided by Subsection (d) or Section 232.037(c), Local Government Code, from serving or connecting any subdivided land with water or sewer services unless the utility receives a certificate issued by the commissioners court under Section 232.028(a), Local Government Code, or receives a determination from the commissioners court under Section 232.028(b)(1), Local Government Code, that the plat has been reviewed and approved by the commissioners court.

Prohibits a utility, except as provided by Subsection (d) or Section 232.037(c), Local Government Code, from serving or connecting any subdivided land with electricity or gas unless the entity receives a determination from the county commissioners court under Section 232.028(b)(2), Local Government Code, that adequate water and sewer services have been installed to service the subdivision.

Section 232.029(d), Local Government Code, authorizes an electric, gas, water, or sewer service utility to serve or connect subdivided land with water, sewer, electricity, gas, or other utility service regardless of whether the utility receives a certificate issued by the commissioners court under Section 232.028(a), Local Government Code, or receives a determination from the commissioners court under Section 232.028(b), Local Government Code, if the utility is provided with a certificate issued by the commissioners court that states 1) the subdivided land was sold or conveyed to the person requesting service by any means of

conveyance, including a contract for deed or executory contract before September 1, 2005, is located in a subdivision in which the utility has previously provided service, and is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun on or before September 1, 2005; or 2) the subdivided land was not subdivided after September 1, 2005, and water service is available within 750 feet of the subdivided land or water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

Authorizes a utility to provide service to subdivided land described by Section 232.0291(d)(1), Local Government Code, only if the person requesting the service is not the land's subdivider or the subdivider's agent and provides to the utility a certificate described by the above referenced subsection.

A person requesting service may obtain a certificate under Section 232.0291(d)(1), Local Government Code, only if the person provides to the commissioners court either 1) documentation containing a copy of the means of conveyance or other documents that show that the land was sold or conveyed to the person requesting service before September 1, 2005, and a notarized affidavit by that person that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before September 1, 2005; or, 2) a notarized affidavit by the person requesting service that states that the property was sold or conveyed to that person before September 1, 2005, and construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before September 1, 2005.

A person requesting service may obtain a certificate under Section 232.0291(d)(2), Local Government Code, only if the person provides to the commissioners court an affidavit that states that property was not sold or conveyed to that person from a subdivider or the subdivider's agent after September 1, 2005.

Requires the commissioners court, on request, to provide to the attorney general and any appropriate local, county, or state law enforcement official a copy of any document on which the commissioners court relied in determining the legality of providing service.

Section 232.0291, Local Government Code, may not be construed to abrogate any civil or criminal proceeding or prosecution or to waive any penalty against a subdivider for a violation of a state or local law, regardless of the date on which the violation occurred.

The prohibition established by Section 232.0291, Local Government Code, does not prohibit an electric or gas utility from providing electric or gas utility connection or service to a lot sold, conveyed, or purchased through a contract for deed or executory contract or other device by a subdivider before September 1, 2005, located within a subdivision where the utility has previously established service, and subdivided by a plat approved before September 1, 1989.

Defines "foundation".

SECTION 6 Amends Section 232.031, Local Government Code, by amending Subsection (a) to make an exception as provided by Subsection (d) in the Section and adding Subsection (d) to prohibit a subdivider, in a county defined under Section 232.022(a)(2), Local and Government Code, from selling or leasing land in a subdivision first platted or replatted after September 1, 2005, unless the subdivision plat is approved by the commissioners court in accordance with Section 232.024, Local Government Code.

- SECTION 7 Amends Section 232.038, Local Government Code, to add an exception as provided by Subsection (b) of the Section and to authorize a person, if the lot is located in a county defined under Section 232.022(a)(2), Local Government Code, to only bring suit under Subsection (a) of the Section if the person purchased or is purchasing the lot after September 1, 2005.
- SECTION 8 Amends Section 232.040(e), Local Government Code, to provide that existing utility services to a subdivision that must be platted or replatted under this Section may not be terminated under Section 232.0291, Local Government Code.
- SECTION 9 Amends Section 232.043(b), Local Government Code, to authorize the commissioners court, if the commissioners court makes a written finding that the subdivider who created the unplatted subdivision no longer owns property in the subdivision, to grant a delay or variance under this section only if a majority of lots in the subdivision were sold before September 1, 1995, in a county defined under Section 232.022(a)(1), Local Government Code, or September 1, 2005, in a county defined under Section 232.022(a)(2), Local Government Code, and other stipulations are met.
- SECTION 10 Amends Section 232.106, Local Government Code, to authorize the commissioners court to, by an adopted order and entered into the minutes of the commissioners court, and after a notice is published in a newspaper of general circulation in the county, impose the requirements of Section 232.0291, Local Government Code.
- SECTION 11 Amends Section 775.001(2), Government Code, to redefine "colonia".
- SECTION 12 Amends Section 775.003, Government Code, to authorize the colonia initiatives coordinator to appoint a colonia ombudsman in each additional county any part of which is within 100 miles of an international border and that contains a municipality with a population of more than 250,000.
- SECTION 13 Amends Section 37.153, Utilities Code, to require a certificate holder to refuse to serve a customer in the holder's certificated area if the holder is prohibited from providing the service under Section 232.0291, Local Government Code.
- SECTION 14 Amends Section 54.254, Utilities Code, to require a holder of a certificate of convenience and necessity, a certificate of operating authority, or a service provider certificate of operating authority, to refuse to serve a customer in the holder's certificated area if the holder is prohibited from providing the service under Section 232.0291, Local Government Code.
- SECTION 15 Amends Section 16.341(1), Water Code, to redefine "affected county."
- SECTION 16 Amends Section 17.923, Water Code, to require that to be eligible for financial assistance under Subchapter K, Chapter 17, Water Code, a county must meet at least one condition, one of those being that it is located in whole or in part within 100 miles of an international border and contain a municipality with a population of more than 250,000.
- SECTION 17 The Act takes effect September 1, 2005.

EFFECTIVE DATE

September 1, 2005

SUMMARY OF COMMITTEE ACTION

SB 425

May 16, 2005 8:00AM

Considered in public hearing

Testimony taken in committee (See attached witness list.)

Left pending in committee

May 18, 2005 upon final adjourn./recess

Considered in formal meeting

Recommended to be sent to Local & Consent

Reported favorably without amendment(s)

WITNESS LIST

SB 425
HOUSE COMMITTEE REPORT
Border and International Affairs Committee

May 16, 2005 - 8:00AM

For: Reed, Cyrus (Lone Star Chapter of Sierra Club)
On: Henneberger, John (Texas Low Income Housing Information
Service & Border Low Income Housing Coalition)
Madera, Jr., Ignacio (Texas Water Development Board)
Steinberg, Jonathan (Texas Water Development Board)

6

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 9, 2005

TO: Honorable Norma Chavez, Chair, House Committee on Border and International Affairs

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: **SB425** by Hinojosa (Relating to subdivision platting requirements and assistance for certain counties near an international border.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code relating to serving or connecting land with water, sewer, electricity, gas, or other utility service by a municipality, county, special district, or certain water supply or sewer service corporation to specify applicability in counties located within 50 miles of the border of Mexico and a county located within 100 miles of the international border and that contains the majority of the area of a municipality with a population of 250,000 or more. Certain land in a municipality's extraterritorial jurisdiction could be excluded from applicability.

Nueces County is currently the only county to which the specification applies that a county must be within 100 miles of the international border and that contains the majority of the area of a municipality with a population of more than 250,000.

The bill would also include Nueces County when addressing connection of utilities in counties within 50 miles of the Mexico border, and would add a new section to the Local Government Code that applies only to Nueces County regarding connection of utilities.

Nueces County would be included with international border counties with regard to lawsuits by private persons in economically distressed areas as those suits relate to the purchase of property that does not have water and sewer services and with regard to variance from platting requirements.

Additionally, the bill would amend the Government Code, the Utilities Code, and the Water Code to include Nueces County as a colonia, as a county relating to refusal or prohibition of service, and as a county eligible for financial assistance.

The bill would take effect September 1, 2005.

Local Government Impact

The changes to the Local Government Code that would apply to counties within 50 miles of an international border do not make substantial changes to how the code affects those counties; therefore, the fiscal impact would be insignificant.

The changes in the Local Government Code and the other codes listed would apply only to Nueces County. Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies: 307 Secretary of State

LBB Staff: JOB, CL, DLBa

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 7, 2005

TO: Honorable Frank Madla, Chair, Senate Committee on Intergovernmental Relations

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB425 by Hinojosa (Relating to subdivision platting requirements and assistance for certain counties near an international border.), Committee Report 1st House, Substituted

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code relating to serving or connecting land with water, sewer, electricity, gas, or other utility service by a municipality, county, special district, or certain water supply or sewer service corporation to specify applicability in counties located within 50 miles of the border of Mexico and a county located within 100 miles of the international border and that contains the majority of the area of a municipality with a population of 250,000 or more. Certain land in a municipality's extraterritorial jurisdiction could be excluded from applicability.

Nueces County is currently the only county to which the specification applies that a county must be within 100 miles of the international border and that contains the majority of the area of a municipality with a population of more than 250,000.

The bill would also include Nueces County when addressing connection of utilities in counties within 50 miles of the Mexico border, and would add a new section to the Local Government Code that applies only to Nueces County regarding connection of utilities.

Nueces County would be included with international border counties with regard to lawsuits by private persons in economically distressed areas as those suits relate to the purchase of property that does not have water and sewer services and with regard to variance from platting requirements.

Additionally, the bill would amend the Government Code, the Utilities Code, and the Water Code to include Nueces County as a colonia, as a county relating to refusal or prohibition of service, and as a county eligible for financial assistance.

The bill would take effect September 1, 2005.

Local Government Impact

The changes to the Local Government Code that would apply to counties within 50 miles of an international border do not make substantial changes to how the code affects those counties; therefore, the fiscal impact would be insignificant.

The changes in the Local Government Code and the other codes listed would apply only to Nueces County. Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies: 307 Secretary of State

LBB Staff: JOB, DLBa

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 1, 2005

TO: Honorable Frank Madla, Chair, Senate Committee on Intergovernmental Relations

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB425 by Hinojosa (Relating to subdivision platting requirements and assistance for certain counties near an international border.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code relating to serving or connecting land with water, sewer, electricity, gas, or other utility service by a municipality, county, special district, or certain water supply or sewer service corporation to specify applicability in counties located within 50 miles of the border of Mexico and a county located within 150 miles of the international border and that contains a municipality with a population of 250,000 or more. Nueces County is currently the only county to which the specification of a county within 150 miles of the international border that has a municipality with a population of 250,000 or more applies.

The bill would also include Nueces County when addressing connection of utilities in counties within 50 miles of the Mexico border, and would add a new section to the Local Government Code that applies only to Nueces County regarding connection of utilities.

Nueces County would be included with international border counties with regard to lawsuits by private persons in economically distressed areas as those suits relate to the purchase of property that does not have water and sewer services and with regard to variance from platting requirements.

Additionally, the bill would amend the Government Code, the Utilities Code, and the Water Code to include Nueces County as a colonia, as a county relating to refusal or prohibition of service, and as a county eligible for financial assistance.

The bill would take effect September 1, 2005.

Local Government Impact

The changes to the Local Government Code that would apply to counties within 150 miles of an international border do not make substantial changes to how the code affects those counties; therefore, the fiscal impact would be insignificant.

The changes in the Local Government Code and the other codes listed would apply only to Nueces County. Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies: 307 Secretary of State

LBB Staff: JOB, DLBa

S.B. No. 425

AN ACT

relating to subdivision platting requirements and assistance for certain counties near an international border.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsections (c), (e), and (f), Section 212.012, Local Government Code, are amended to read as follows:

(c) An entity described by Subsection (b) may serve or connect land with water, sewer, electricity, gas, or other utility service regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115 if:

(1) the land is covered by a development plat approved under Subchapter B or under an ordinance or rule relating to the development plat;

(2) the land was first served or connected with service by an entity described by Subsection (b)(1), (b)(2), or (b)(3) before September 1, 1987;

(3) the land was first served or connected with service by an entity described by Subsection (b)(4), (b)(5), or (b)(6) before September 1, 1989; or

(4) the municipal authority responsible for approving plats issues a certificate stating that:

(A) the land:

(i) [~~before September 1, 1995,~~] was sold or

conveyed to the person requesting service by any means of conveyance, including a contract for deed or executory contract, before:

(a) September 1, 1995, in a county defined under Section 232.022(a)(1); or

(b) September 1, 2005, in a county defined under Section 232.022(a)(2);

(ii) is located in a subdivision in which the entity has previously provided service;

(iii) is located outside the limits of the municipality;

(iv) is located in a county to which Subchapter B, Chapter 232, applies; and

(v) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun on or before:

(a) May 1, 1997, in a county defined under Section 232.022(a)(1); or

(b) September 1, 2005, in a county defined under Section 232.022(a)(2); or

(B) the land was not subdivided after September 1, 1995, in a county defined under Section 232.022(a)(1), or September 1, 2005, in a county defined under Section 232.022(a)(2), and:

(i) water service is available within 750 feet of the subdivided land; or

(ii) water service is available more than

5800

S.B. No. 425

1 750 feet from the subdivided land and the extension of water service
2 to the land may be feasible, subject to a final determination by the
3 water service provider.

4 (e) A person requesting service may obtain a certificate
5 under Subsection (c)(4)(A) only if the person provides to the
6 municipal authority responsible for approving plats either:

7 (1) a copy of the means of conveyance or other
8 documents that show that the land was sold or conveyed to the person
9 requesting service before September 1, 1995, or before September 1,
10 2005, as applicable, and a notarized affidavit by that person that
11 states that construction of a residence on the land, evidenced by at
12 least the existence of a completed foundation, was begun on or
13 before May 1, 1997, or on or before September 1, 2005, as
14 applicable; or

15 (2) a notarized affidavit by the person requesting
16 service that states that the property was sold or conveyed to that
17 person before September 1, 1995, or before September 1, 2005, as
18 applicable, and that construction of a residence on the land,
19 evidenced by at least the existence of a completed foundation, was
20 begun on or before May 1, 1997, or on or before September 1, 2005, as
21 applicable.

22 (f) A person requesting service may obtain a certificate
23 under Subsection (c)(4)(B) only if the person provides to the
24 municipal authority responsible for approving plats an affidavit
25 that states that the property was not sold or conveyed to that
26 person from a subdivider or the subdivider's agent after September
27 1, 1995, or after September 1, 2005, as applicable.

7822

S.B. No. 425

SECTION 2. Section 232.022, Local Government Code, is amended by amending Subsections (a) and (c) and adding Subsection (c-1) to read as follows:

(a) This subchapter applies only to:

(1) a county any part of which is located within 50 miles of an international border; or

(2) a county:

(A) any part of which is located within 100 miles of an international border;

(B) that contains the majority of the area of a municipality with a population of more than 250,000; and

(C) to which Subdivision (1) does not apply.

(c) Except as provided by Subsection (c-1), for ~~[For]~~ purposes of this section, land is considered to be in the jurisdiction of a county if the land is located in the county and outside the corporate limits of municipalities.

(c-1) Land in a municipality's extraterritorial jurisdiction is not considered to be in the jurisdiction of a county for purposes of this section if the municipality and the county have entered into a written agreement under Section 242.001 that authorizes the municipality to regulate subdivision plats and approve related permits in the municipality's extraterritorial jurisdiction.

SECTION 3. The heading to Section 232.029, Local Government Code, is amended to read as follows:

Sec. 232.029. CONNECTION OF UTILITIES IN COUNTIES WITHIN 50 MILES OF INTERNATIONAL BORDER.

1 SECTION 4. Section 232.029, Local Government Code, is
2 amended by relettering Subsection (a) as Subsection (a-1) and
3 adding a new Subsection (a) to read as follows:

4 (a) This section applies only to a county defined under
5 Section 232.022(a)(1).

6 (a-1) Except as provided by Subsection (c) or Section
7 232.037(c), a utility may not serve or connect any subdivided land
8 with water or sewer services unless the utility receives a
9 certificate issued by the commissioners court under Section
10 232.028(a) or receives a determination from the commissioners court
11 under Section 232.028(b)(1) that the plat has been reviewed and
12 approved by the commissioners court.

13 SECTION 5. Subchapter B, Chapter 232, Local Government
14 Code, is amended by adding Section 232.0291 to read as follows:

15 Sec. 232.0291. CONNECTION OF UTILITIES IN CERTAIN COUNTIES
16 WITHIN 100 MILES OF INTERNATIONAL BORDER. (a) This section
17 applies only to a county defined under Section 232.022(a)(2).

18 (b) Except as provided by Subsection (d) or Section
19 232.037(c), a utility may not serve or connect any subdivided land
20 with water or sewer services unless the utility receives a
21 certificate issued by the commissioners court under Section
22 232.028(a) or receives a determination from the commissioners court
23 under Section 232.028(b)(1) that the plat has been reviewed and
24 approved by the commissioners court.

25 (c) Except as provided by Subsection (d) or Section
26 232.037(c), a utility may not serve or connect any subdivided land
27 with electricity or gas unless the entity receives a determination

S.B. No. 425

1 from the county commissioners court under Section 232.028(b)(2)
2 that adequate water and sewer services have been installed to
3 service the subdivision.

4 (d) An electric, gas, water, or sewer service utility may
5 serve or connect subdivided land with water, sewer, electricity,
6 gas, or other utility service regardless of whether the utility
7 receives a certificate issued by the commissioners court under
8 Section 232.028(a) or receives a determination from the
9 commissioners court under Section 232.028(b) if the utility is
10 provided with a certificate issued by the commissioners court that
11 states that:

12 (1) the subdivided land:

13 (A) was sold or conveyed to the person requesting
14 service by any means of conveyance, including a contract for deed or
15 executory contract before September 1, 2005;

16 (B) is located in a subdivision in which the
17 utility has previously provided service; and

18 (C) is the site of construction of a residence,
19 evidenced by at least the existence of a completed foundation, that
20 was begun on or before September 1, 2005; or

21 (2) the subdivided land was not subdivided after
22 September 1, 2005, and:

23 (A) water service is available within 750 feet of
24 the subdivided land; or

25 (B) water service is available more than 750 feet
26 from the subdivided land and the extension of water service to the
27 land may be feasible, subject to a final determination by the water

service provider.

(e) A utility may provide utility service to subdivided land described by Subsection (d)(1) only if the person requesting service:

(1) is not the land's subdivider or the subdivider's agent; and

(2) provides to the utility a certificate described by Subsection (d)(1).

(f) A person requesting service may obtain a certificate under Subsection (d)(1) only if the person provides to the commissioners court either:

(1) documentation containing:

(A) a copy of the means of conveyance or other documents that show that the land was sold or conveyed to the person requesting service before September 1, 2005; and

(B) a notarized affidavit by that person that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before September 1, 2005; or

(2) a notarized affidavit by the person requesting service that states that:

(A) the property was sold or conveyed to that person before September 1, 2005; and

(B) construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before September 1, 2005.

(g) A person requesting service may obtain a certificate

386

S.B. No. 425

1 under Subsection (d)(2) only if the person provides to the
2 commissioners court an affidavit that states that the property was
3 not sold or conveyed to that person from a subdivider or the
4 subdivider's agent after September 1, 2005.

5 (h) On request, the commissioners court shall provide to the
6 attorney general and any appropriate local, county, or state law
7 enforcement official a copy of any document on which the
8 commissioners court relied in determining the legality of providing
9 service.

10 (i) This section may not be construed to abrogate any civil
11 or criminal proceeding or prosecution or to waive any penalty
12 against a subdivider for a violation of a state or local law,
13 regardless of the date on which the violation occurred.

14 (j) The prohibition established by this section does not
15 prohibit an electric or gas utility from providing electric or gas
16 utility connection or service to a lot:

17 (1) sold, conveyed, or purchased through a contract
18 for deed or executory contract or other device by a subdivider
19 before September 1, 2005;

20 (2) located within a subdivision where the utility has
21 previously established service; and

22 (3) subdivided by a plat approved before September 1,
23 1989.

24 (k) In this section, "foundation" means the lowest division
25 of a residence, usually consisting of a masonry slab or a pier and
26 beam structure, that is partly or wholly below the surface of the
27 ground and on which the residential structure rests.

S.B. No. 425

1 SECTION 6. Section 232.031, Local Government Code, is
2 amended by amending Subsection (a) and adding Subsection (d) to
3 read as follows:

4 (a) Except as provided by Subsection (d), a [A] subdivider
5 may not sell or lease land in a subdivision first platted or
6 replatted after July 1, 1995, unless the subdivision plat is
7 approved by the commissioners court in accordance with Section
8 232.024.

9 (d) In a county defined under Section 232.022(a)(2), a
10 subdivider may not sell or lease land in a subdivision first platted
11 or replatted after September 1, 2005, unless the subdivision plat
12 is approved by the commissioners court in accordance with Section
13 232.024.

14 SECTION 7. Section 232.038, Local Government Code, is
15 amended to read as follows:

16 Sec. 232.038. SUIT BY PRIVATE PERSON IN ECONOMICALLY
17 DISTRESSED AREA. (a) Except as provided by Subsection (b), a [A]
18 person who has purchased or is purchasing a lot after July 1, 1995,
19 in a subdivision for residential purposes that does not have water
20 and sewer services as required by this subchapter and is located in
21 an economically distressed area, as defined by Section 17.921,
22 Water Code, from a subdivider, may bring suit in the district court
23 in which the property is located or in a district court in Travis
24 County to:

25 (1) declare the sale of the property void and require
26 the subdivider to return the purchase price of the property; and

27 (2) recover from the subdivider:

70EE

S.B. No. 425

(A) the market value of any permanent improvements the person placed on the property;

(B) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;

(C) court costs; and

(D) reasonable attorney's fees.

(b) If the lot is located in a county defined under Section 232.022(a)(2), a person may only bring suit under Subsection (a) if the person purchased or is purchasing the lot after September 1, 2005.

SECTION 8. Subsection (e), Section 232.040, Local Government Code, is amended to read as follows:

(e) Existing utility services to a subdivision that must be platted or replatted under this section may not be terminated under Section 232.029 or 232.0291.

SECTION 9. Subsection (b), Section 232.043, Local Government Code, is amended to read as follows:

(b) If the commissioners court makes a written finding that the subdivider who created the unplatted subdivision no longer owns property in the subdivision, the commissioners court may grant a delay or variance under this section only if:

(1) a majority of the lots in the subdivision were sold before:

(A) September 1, 1995, in a county defined under Section 232.022(a)(1); or

(B) September 1, 2005, in a county defined under Section 232.022(a)(2);

1 (2) a majority of the resident purchasers in the
2 subdivision sign a petition supporting the delay or variance;

3 (3) the person requesting the delay or variance
4 submits to the commissioners court:

5 (A) a description of the water and sewer service
6 facilities that will be constructed or installed to service the
7 subdivision;

8 (B) a statement specifying the date by which the
9 water and sewer service facilities will be fully operational; and

10 (C) a statement signed by an engineer licensed in
11 this state certifying that the plans for the water and sewer
12 facilities meet the minimum state standards;

13 (4) the commissioners court finds that the unplatted
14 subdivision at the time the delay or variance is requested is
15 developed in a manner and to an extent that compliance with specific
16 platting requirements is impractical or contrary to the health or
17 safety of the residents of the subdivision; and

18 (5) the subdivider who created the unplatted
19 subdivision has not violated local law, federal law, or state law,
20 excluding this chapter, in subdividing the land for which the delay
21 or variance is requested, if the subdivider is the person
22 requesting the delay or variance.

23 SECTION 10. Section 232.106, Local Government Code, is
24 amended to read as follows:

25 Sec. 232.106. CONNECTION OF UTILITIES. By an order adopted
26 and entered in the minutes of the commissioners court, and after a
27 notice is published in a newspaper of general circulation in the

1 county, the commissioners court may impose the requirements of
2 Section 232.029 or 232.0291.

3 SECTION 11. Subdivision (2), Section 775.001, Government
4 Code, is amended to read as follows:

5 (2) "Colonia" means a geographic area that:

6 (A) is an economically distressed area as defined
7 by Section 17.921, Water Code; and

8 (B) is:

9 (i) located in a county any part of which is
10 within 50 miles of an international border; or

11 (ii) located in a county:

12 (a) any part of which is within 100
13 miles of an international border; and

14 (b) that contains the majority of the
15 area of a municipality with a population of more than 250,000.

16 SECTION 12. Section 775.003, Government Code, is amended to
17 read as follows:

18 Sec. 775.003. COLONIA OMBUDSMAN PROGRAM. The colonia
19 initiatives coordinator may appoint a colonia ombudsman in:

20 (1) each of the six border counties that the
21 coordinator determines have the largest colonia populations; and

22 (2) each additional county any part of which is within
23 100 miles of an international border and that contains the majority
24 of the area of a municipality with a population of more than
25 250,000.

26 SECTION 13. Section 37.153, Utilities Code, is amended to
27 read as follows:

1 Sec. 37.153. REQUIRED REFUSAL OF SERVICE. A certificate
2 holder shall refuse to serve a customer in the holder's
3 certificated area if the holder is prohibited from providing the
4 service under Section 212.012, ~~[or]~~ 232.029, or 232.0291, Local
5 Government Code.

6 SECTION 14. Section 54.254, Utilities Code, is amended to
7 read as follows:

8 Sec. 54.254. REQUIRED REFUSAL OF SERVICE. A holder of a
9 certificate of convenience and necessity, a certificate of
10 operating authority, or a service provider certificate of operating
11 authority shall refuse to serve a customer in the holder's
12 certificated area if the holder is prohibited from providing the
13 service under Section 212.012, ~~[or]~~ 232.029, or 232.0291, Local
14 Government Code.

15 SECTION 15. Subdivision (1), Section 16.341, Water Code, is
16 amended to read as follows:

17 (1) "Affected county" means a county:

18 (A) that has a per capita income that averaged 25
19 percent below the state average for the most recent three
20 consecutive years for which statistics are available and an
21 unemployment rate that averaged 25 percent above the state average
22 for the most recent three consecutive years for which statistics
23 are available; ~~[or]~~

24 (B) that is adjacent to an international border;
25 or

26 (C) that is located in whole or in part within 100
27 miles of an international border and contains the majority of the

1 area of a municipality with a population of more than 250,000.

2 SECTION 16. Section 17.923, Water Code, is amended to read
3 as follows:

4 Sec. 17.923. COUNTY ELIGIBILITY FOR FINANCIAL ASSISTANCE.
5 To be eligible for financial assistance under this subchapter, a
6 county:

7 (1) must have a per capita income that averaged 25
8 percent below the state average for the most recent three
9 consecutive years for which statistics are available and an
10 unemployment rate that averaged 25 percent above the state average
11 for the most recent three consecutive years for which statistics
12 are available; ~~or~~

13 (2) must be located adjacent to an international
14 border; or

15 (3) must be located in whole or in part within 100
16 miles of an international border and contain the majority of the
17 area of a municipality with a population of more than 250,000.

18 SECTION 17. This Act takes effect September 1, 2005.

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pc
ee

S.B. No. 425

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 425 passed the Senate on April 21, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 425 passed the House on May 25, 2005, by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 9, 2005

TO: Honorable Norma Chavez, Chair, House Committee on Border and International Affairs

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: **SB425** by Hinojosa (Relating to subdivision platting requirements and assistance for certain counties near an international border.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code relating to serving or connecting land with water, sewer, electricity, gas, or other utility service by a municipality, county, special district, or certain water supply or sewer service corporation to specify applicability in counties located within 50 miles of the border of Mexico and a county located within 100 miles of the international border and that contains the majority of the area of a municipality with a population of 250,000 or more. Certain land in a municipality's extraterritorial jurisdiction could be excluded from applicability.

Nueces County is currently the only county to which the specification applies that a county must be within 100 miles of the international border and that contains the majority of the area of a municipality with a population of more than 250,000.

The bill would also include Nueces County when addressing connection of utilities in counties within 50 miles of the Mexico border, and would add a new section to the Local Government Code that applies only to Nueces County regarding connection of utilities.

Nueces County would be included with international border counties with regard to lawsuits by private persons in economically distressed areas as those suits relate to the purchase of property that does not have water and sewer services and with regard to variance from platting requirements.

Additionally, the bill would amend the Government Code, the Utilities Code, and the Water Code to include Nueces County as a colonia, as a county relating to refusal or prohibition of service, and as a county eligible for financial assistance.

The bill would take effect September 1, 2005.

Local Government Impact

The changes to the Local Government Code that would apply to counties within 50 miles of an international border do not make substantial changes to how the code affects those counties; therefore, the fiscal impact would be insignificant.

The changes in the Local Government Code and the other codes listed would apply only to Nueces County. Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies: 307 Secretary of State

LBB Staff: JOB, CL, DLBa

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 7, 2005

TO: Honorable Frank Madla, Chair, Senate Committee on Intergovernmental Relations

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB425 by Hinojosa (Relating to subdivision platting requirements and assistance for certain counties near an international border.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code relating to serving or connecting land with water, sewer, electricity, gas, or other utility service by a municipality, county, special district, or certain water supply or sewer service corporation to specify applicability in counties located within 50 miles of the border of Mexico and a county located within 100 miles of the international border and that contains the majority of the area of a municipality with a population of 250,000 or more. Certain land in a municipality's extraterritorial jurisdiction could be excluded from applicability.

Nueces County is currently the only county to which the specification applies that a county must be within 100 miles of the international border and that contains the majority of the area of a municipality with a population of more than 250,000.

The bill would also include Nueces County when addressing connection of utilities in counties within 50 miles of the Mexico border, and would add a new section to the Local Government Code that applies only to Nueces County regarding connection of utilities.

Nueces County would be included with international border counties with regard to lawsuits by private persons in economically distressed areas as those suits relate to the purchase of property that does not have water and sewer services and with regard to variance from platting requirements.

Additionally, the bill would amend the Government Code, the Utilities Code, and the Water Code to include Nueces County as a colonia, as a county relating to refusal or prohibition of service, and as a county eligible for financial assistance.

The bill would take effect September 1, 2005.

Local Government Impact

The changes to the Local Government Code that would apply to counties within 50 miles of an international border do not make substantial changes to how the code affects those counties; therefore, the fiscal impact would be insignificant.

The changes in the Local Government Code and the other codes listed would apply only to Nueces County. Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies: 307 Secretary of State

LBB Staff: JOB, DLBa

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 1, 2005

TO: Honorable Frank Madla, Chair, Senate Committee on Intergovernmental Relations

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB425 by Hinojosa (Relating to subdivision platting requirements and assistance for certain counties near an international border.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code relating to serving or connecting land with water, sewer, electricity, gas, or other utility service by a municipality, county, special district, or certain water supply or sewer service corporation to specify applicability in counties located within 50 miles of the border of Mexico and a county located within 150 miles of the international border and that contains a municipality with a population of 250,000 or more. Nueces County is currently the only county to which the specification of a county within 150 miles of the international border that has a municipality with a population of 250,000 or more applies.

The bill would also include Nueces County when addressing connection of utilities in counties within 50 miles of the Mexico border, and would add a new section to the Local Government Code that applies only to Nueces County regarding connection of utilities.

Nueces County would be included with international border counties with regard to lawsuits by private persons in economically distressed areas as those suits relate to the purchase of property that does not have water and sewer services and with regard to variance from platting requirements.

Additionally, the bill would amend the Government Code, the Utilities Code, and the Water Code to include Nueces County as a colonia, as a county relating to refusal or prohibition of service, and as a county eligible for financial assistance.

The bill would take effect September 1, 2005.

Local Government Impact

The changes to the Local Government Code that would apply to counties within 150 miles of an international border do not make substantial changes to how the code affects those counties; therefore, the fiscal impact would be insignificant.

The changes in the Local Government Code and the other codes listed would apply only to Nueces County. Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies: 307 Secretary of State

LBB Staff: JOB, DLBa

3/4cert

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 425 passed the Senate on
April 21, 2005, by the following vote: Yeas 31,
Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 425 passed the House on
May 25, 2005, by [^]the ~~following~~ vote: Yeas ~~_____~~,
Nays ~~_____~~ _{↳ a non-record vote.}

Chief Clerk of the House

Approved:

Date

Governor

S.B. No. 425

By J. J. King

A BILL TO BE ENTITLED

AN ACT relating to subdivision platting requirements and assistance for certain counties near an international border.

FEB 09 2005 Filed with the Secretary of the Senate
FEB 15 2005 Read and referred to Committee on INTERGOVERNMENTAL RELATIONS
Reported favorably
APR 12 2005 Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.
Ordered not printed
APR 21 2005 Laid before the Senate
Senate and Constitutional Rules to permit consideration suspended by: { unanimous consent
_____ yeas, _____ nays
APR 21 2005 Read second time, _____, and ordered engrossed by: { ~~unanimous consent~~
a viva voce vote
_____ yeas, _____ nays
APR 21 2005 Senate and Constitutional 3 Day Rule suspended by a vote of 31 yeas, 0 nays.
APR 21 2005 Read third time, _____, and passed by: { A viva voce vote
31 yeas, 0 nays

Lotay Spaw
SECRETARY OF THE SENATE

OTHER ACTION:

April 21, 2005 Engrossed
Sent to House

Engrossing Clerk

Mandi Alford

APR 21 2005 Received from the Senate
APR 29 2005 Read first time and referred to Committee on Border and International Affairs
MAY 18 2005 Reported _____ favorably ~~(as amended) (as substituted)~~
MAY 20 2005 Sent to Committee on ~~(Calendar)~~ (Local & Consent Calendars)
MAY 25 2005 Read second time ~~(committee subst.)~~ (amended); passed to third reading ~~(failed)~~ by a (non-record vote)
(record vote _____ yeas, _____ nays, _____ present, _____ voting)
Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of _____ yeas, _____ nays, _____ present, not voting.
MAY 25 2005 Read third time ~~(amended)~~, finally passed ~~(failed to pass)~~ by a (non-record vote)
(record vote _____ yeas, _____ nays, _____ present, _____ voting)
MAY 25 2005 Returned to Senate.
MAY 25 2005 Returned from House without amendment.
Returned from House with _____ amendments.
Concurred in House amendments by a viva voce vote _____ yeas, _____ nays.

Robert Haney

CHIEF CLERK OF THE HOUSE

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____
_____, _____, and _____

_____ House granted Senate request. House conferees appointed: _____, Chairman;
_____, _____, _____

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by:

{ a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
_____ yeas, _____ nays

05 MAY 20 AM 12: 18
HOUSE OF REPRESENTATIVES